STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TAMIKA COGGINS, as Guardian and Conservator of ANNIE COGGINS, an Incapacitated Person,

Plaintiffs,

vs.

Case No. 04-408166-NF
Hon: Cynthia D. Stephens

AUTO CLUB INSURANCE ASSOCIATION,

Defendant.

/

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248-363-6400

/

PLAINTIFF'S FACILITATION SUMMARY

THOMAS, GARVEY, GARVEY & SCIOTTI
ATTORNEYS AT LAW
A PROFESSIONAL LIMITED LIABILITY COMPANY
24825 LITTLE MACK ● ST. CLAIR SHORES, MICHIGAN 48080-3218
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FACTS

This case involves a claim for personal injury protection benefits related to severe injuries sustained by Annie Coggins in a July 22, 1978 automobile accident. As a result of this accident, Ms. Coggins was in critical condition with six broken ribs, a fractured skull, fractured jaw, loss of her right eye, spinal cord broken in two places, internal injuries and was in a coma for six months. Following the automobile accident, she was hospitalized at various facilities for rehabilitation and care until September of 1983.

For six years, from 1983 until 1989, Annie was cared for by her mother. Annie's mother died in 1989 and Doris Gibson became Annie's Guardian and provided 24 hour attendant care for Annie. From 1989 until 1994, Ms. Gibson provided 24 hour attendant care for Annie.

On December 20, 1994, Tamika Coggins, Annie's daughter, became her Guardian and began provided 24 hour attendant care.

From 1983 to 1989, there is no record of the Auto Club having even paid a single dollar for attendant care. Beginning in 1989, the Defendant unilaterally began $1,200.00 as a flat rate per month for 24 hour attendant care. This works out to approximately an $1.80 per hour for attendant care.

In 1999, Defendant started paying an hourly amount of $7.50 per hour. Based on 24 hours, that amounted to $5,400.00 per month for $4,200.00 per month increase. The Defendant did not go back one year from 1999 and reimburse the Plaintiff the $50,000.00 that would have been owed for underpayment for the last year. Instead, the Defendant again unilaterally and

without negotiation continued to pay the rate $7.50 per hour until February 17, 2000, when it was increased to $8.00 per hour. From February 17, 2000 to December 1, 2000, the Defendant paid $8.00 per hour. On December 1, 2000 an increase to $9.00 per hour was granted until January 1, 2002 when it was increased again to $9.50 per hour. The Defendant is currently paying $11.00 per hour.

In this case, Plaintiff has brought a claim under the Michigan No Fault Act and the no fault policy for attendant care and room and board benefits that are due and owing going back to the date of the accident, July 22, 1978. In addition, Plaintiff has brought claims based on fraud and violation of the Michigan Consumer Protection Act. Plaintiff's claim of fraud is based on a systemic and long standing pattern of deception, misinformation and out and out misrepresentation by the Defendant AAA in a systemic fashion to cheat and defraud brain damaged people such as the Plaintiff who had been catastrophically injured in automobile accidents.

The Defendant's own adjuster notes clearly indicate on multiple occasions since this accident that Ms. Coggins is in need of 24 hour care and will need 24 hour care "requires 24 hour and will for life." Defendant, AAA's own internal records clearly indicate the need for 24 hour care for Ms. Coggins for the remainder of her life. ***(Please see Exhibit A).***

In the Defendant's diary notes, P. 2 (1991) the Defendant adjuster indicates "from my observation this would be a monumental task. (Referring to the plaintiff wanting to learn to cook) . . . without the aide of a walker and leaning on the walls of her home for support . . . is in constant need of 24 hour care and monitoring. She cannot dress herself, do personal hygiene

or anything." Again, in 1991, the adjuster indicated that Ms. Coggins will never be one hundred percent functional again based on doctors' reports. In 1994, the adjuster's indicate "still requires 24 hour supervised care." In 1996, the adjuster's notes indicate her condition still warrants 24 hour monitoring. In 2001, the adjuster's notes indicate that Dr. Joe states "condition will not change and supervision is required at all times." In 2003, the Defendant's adjuster began to question the need for continuing 24 hour attendant care even though the documentation clearly indicated it was necessary. Then in June of 2003, the Defendant received an IME report from Dr. DeSantis which states that Annie is need of 24 hour supervision. According to Dr. DeSantis, in the adjuster's notes, Plaintiff would not be able to leave a burning building if it was on fire and could not be left alone.

In October of 2003, the Defendant had the file reassigned to another handler who gives a history of Plaintiff having sustained a severe traumatic brain injury with right sided hemiplegia. This file handler indicates that there is a disputed amount of home care and unilaterally cut benefits in half even though the file was properly documented with prescriptions from an IME as well as treating doctors.

Defendant, AAA, has received various prescriptions from Dr. Nancy DeSantis indicating the need for 24 hour supervision from 2003 through to the present. From Dr. Lonnie Joe in January of 1999, from Dr. George Mogill in 2000 and 2001. From Medical Center Health Care Providers in 2003 and as early as 1978 from Dr. Morris indicating that Annie would need full-time household assistance because of poor reasoning; that this attendant care would be permanent; and that she had a permanent disability. ***(Please see Exhibit B).***

In 2002, the Defendant's adjuster, Brenda Chretien sent a letter to Century 21 as Tamika Coggins was attempting to justify her income. The letter from Brenda Chretien indicates "these benefits are due and owing as a result of injuries that Ms. Coggins sustained in a motor vehicle accident of July 22, 1978. They will most likely continue for the remainder of her life or until such time that her physician no longer feels she is in need of this type of care. Also, Shirley Humphries noted in the AAA record "CLID sustained a major closed head injury some years ago. She has gone through every form of treatment imaginable and to date she has only reached the level of a ten year old. She is not capable of living alone. Therefore, is presently residing with her daughter Tamika who provides the necessary monthly care." ***(Please see Exhibit C).***

From 1983 to the present, Ms. Coggins has been provided 24 hour around the clock care and the Defendant has refused to pay attendant care until approximately 1988 and for the next eleven years, paid only $1,200.00 per month. From 1999 to the present, Defendant has willfully underpaid attendant care which should be paid at the commercial market rate.

This Defendant has failed to produce to Plaintiff an entire copy of the claim file, including payment logs and check receipts.

Ms. Coggins and her family relied upon the representations of the Defendant regarding entitlement to attendant care benefits to their detriment. Not until this litigation was filed, was the family aware that Ms. Coggins was entitled to make a claim for market rates as well as reimbursement for room and board benefits, case management fees, guardianship fees, and other no fault benefits that the Defendant intentionally misrepresented and/or failed through

silent fraud to inform the family of. According to a report prepared by Plaintiff's expert, Rene LaPort, the prevailing market rates for home health aide from 1983 to 1988 would have been approximately $10.35 per hour. From 1988 to 1989 $11.00 per hour. From 1990 to 1993 $12.00 per hour. From 1994 to 1997 $13.00 per hour. From 1998 to 1999 $15.00 per hour and from 2000 to the present $18.00 per hour. ***(Please see Exhibit D).***

On May 16, 2003, the Defendant has Ms. Coggins examined by an IME Dr. Nancy DeSantis. Dr. DeSantis' report clearly indicates that Ms. Coggins is in need of 24 hour supervision. That she has limited insight and significantly decreased problem solving. ***(Please see Exhibit E).*** Dr. DeSantis had Ms. Coggins seen by Dr. Karley a neuropsychologist for an additional IME. Dr. Karle found Ms. Coggins to 26 years post-severe brain injury due to motor vehicle accident with persistent and wide spread areas of neuropsychological deficit including basic language, attention, orientation, visual spacial perception, construction, anterograde memory and high level thinking skills including abstraction abilities, judgment and reasoning abilities. Her recommendation was to continue current living arrangements as the patient appears to be well cared for and functional at an optimal level in her current environment. ***(Please see Exhibit F).***

It is Plaintiff's position that Defendant, AAA, through its agents, servants, employees and assigns has created a system whereby fraud and misrepresentation is ingrained in the claims process. Whenever Defendant's employees are caught, it is the position of the Defendant that these employees simply made mistakes. This case has revealed systemic fraud on behalf of Defendant, AAA, from its adjusters all the way through upper levels of management in the

Medical Management Unit.

Counsel for Plaintiff has been involved in numerous claims of this type and has deposed numerous individuals responsible for making decisions on claims such as the one brought by Mr. Williams. The testimony from these individuals is quite revealing as to the depths and breadth of the fraud committed by the Defendant AAA against its insureds for years.

Carol Tea Nini was an adjuster, nurse, and case manager for Defendant, AAA, until 1992.In her deposition, Ms. Nini testified that she was told by management not to volunteer information, that if the claimants figured it out on their own or went to a lawyer, then you would answer their questions honestly, but they were not to volunteer any information. ***(Please see Exhibit G, Pg. 20 of Carol Tea Nini Deposition).***

Mrs. Nini further testified that her boss, Mr. McKenzie, told her and other claims specialists and nurses working with claims specialist, that they were not to automatically offer benefits, they should wait until the claimant or the person made a claim for them. ***(Please see Exhibit G, Pg. 19 of Carol Tea Nini Deposition).***

Mrs. Nini was asked whether she had ever raised any ethical concerns with anyone at AAA regarding this type of handling of claims benefits (by not telling the insureds what they were entitled to or how to make the claims) and she indicated that she had. She testified that at one time:

> "When Mr. McKenzie was my manager's manager and he had those meetings with us, when he told us that we were not to offer benefits but see if people requested them, to control costs, I remember really clearly raising my hand in that meeting and Mr. - and I told Mr. McKenzie that what he was asking us to do was not right. . . . Mr. McKenzie told me and the staff in that meeting that, pretty close to a quote, he said, ***we're not talking about right and wrong, we're***

talking about money, and you will do that."
(Please see Exhibit G, Pg. 36 of Carol Tea Nini Deposition).

Mrs. Nini testified that Mr. McKenzie was the manager over John Eshnauer, who was the manager of the Medical Management Unit. ***(Please see Exhibit G, Pg. 37 of Carol Tea Nini Deposition).***

Carol Benn, another AAA employee, who was one of four managers in the Medical Management Unit of AAA testified in her deposition that AAA was aware of the underpayment of benefits on claims such as Mr. Williams going back to as early as the 1970's. She testified that the Medical Management Unit sent teams out to every branch of AAA throughout the State to investigate these types of catastrophic claims to determine the exposure of AAA for ***underpayment for benefits.*** It was her testimony that this study began as a result of lawsuits being filed against AAA (as opposed to AAA intending to do the right thing). ***(Please see Exhibit H, Pgs. 42, 43, 44 and 45 of Carol Benn Deposition).***

Carol Benn testified that after AAA became aware of these underpayments to catastrophically injured insureds going back to the 1970's, that she was not aware of any program developed by AAA to notify these people of the underpayments to them. ***(Please see Exhibit H, Pg. 46 of Carol Benn Deposition).***

According to Ms. Benn, AAA wasn't so much concerned with past benefits as they were with future benefits and meeting ***future reserves.*** No attempt was ever made to inform the Williams' that they had been grossly underpaid and/or that room and board benefits had never been paid. According to Ms. Benn, what AAA was concerned with was correcting the reserve limit that was set on these files to reflect a potential exposure in the future and not

necessarily to go back and to pay to the insureds all of the benefits that had been grossly underpaid for so many years. ***(Please see Exhibit H, Pg. 52 of Carol Benn Deposition).***

Ms. Benn testified that there were "**literally hundreds of these cases.**" ***(Please see Exhibit H, Pg. 53 of Carol Benn Deposition).***

She also indicated that **somebody** (at AAA) recognized the possible future exposure of these old claims. ***(Please see Exhibit H, Pg. 56 of Carol Benn Deposition).***

From the very beginning of this case, Defendant AAA, followed their usual game plan of fraud and deception and misled the Plaintiff and his family as to what benefits they were entitled to when it was clear to the Defendant that Mr. Williams was entitled to room and board as well as attendant care benefits. In fact, the Defendant is paying attendant care benefits to the Plaintiff through the present time and has only increased the rate of payment due to the filing of this litigation.

The deposition was taken of Cynthia Redpath. She is a reserve specialist with Defendant AAA. Her job duties include setting reserves for future payouts on AAA claims for catastrophically injured people like Mr. Williams. In 1997 or 1998, Ms. Redpath was informed by two of three managers of Medical Management Unit at AAA (the highest level of management for first party cases in the State of Michigan), that if she discovered underpayment or non-payment of benefits to an insured, she was not to inform the insureds of their entitlement to back pay for those losses. She testified that AAA had a policy of don't ask don't tell as it related to informing insureds of known under-payments or non-payments of benefits. Further, she testified in approximately 2001, the policy of don't ask don't tell was changed to

"don't tell don't tell." In other words, she used to advise the adjuster of the under-payment and non-payment and suggest to the adjuster that they increase the payment on future benefits but never to discuss with the insured, entitlement to back benefits. The change in 2001 from management, told her to stop informing adjusters of a noticed under-payment or non-payment all together and that still, the insureds were not to be informed, thus, creating the "don't tell don't tell policy." ***(Please see Exhibit I, Dep Transcript of Cynthia Redpath).***

Barbara Hinks is a claims adjusters who has handled catastrophic injury claims with the Defendant since 1981. Her deposition was taken January 27, 2006 on another AAA file handled by Plaintiff's counsel. Ms. Hinks testified that if a catastrophically injured plaintiff was entitled to make a room and board claim that she was handling, that she would not inform them of their entitlement to that benefit. She testified that she didn't know of the availability of the room and board benefit and that AAA had never informed her of the availability of that benefit even though AAA was a defendant in **Manley** v **DAIIE** ,127 Mich App 444 (1983). ***(Exhibit J , Deposition Transcript of Barbara Hinks P51).*** The **Manley** case was pending prior to 1983. The Michigan Supreme Court in **Manley** v **DAIIE**, 425 Mich 140 (1986) upheld Plaintiff's entitlement to room and board benefit and the obligation of the insurance company to inform the insureds of their entitlement to those benefits and to pay them. Despite this knowledge, Barbara Hinks, a senior claims representative has testified under oath that AAA has never informed her, an adjuster handling catastrophic claims, to inform her insureds of entitlement to these benefits.

Ms. Hinks was also questioned with respect to AAA insured's relying on the

representations of their claims adjuster. She testified repeatedly in her deposition that as claims adjusters, they are trained and taught by AAA to get their insureds to reasonably rely upon the representations. She indicated that she has never told an insured not to trust her or that they need to hire a lawyer after explaining their benefits to them. She further testified that with respect to insureds, she attempts to create a relationship with them of trust and confidence from the beginning. She testified that she does not tell them they need to get a lawyer to explain the benefits to them. She testified she has been taught by AAA to establish trust and confidence with insureds and their families. Not distrust of the company and hire a lawyer. Ms. Hinks further testified that she believe that because of that trusting relationship that is established by Defendant, AAA and its insureds, that AAA expects them to rely on everything that they are told about their benefits. Ms. Hinks was asked:

Q "You want them to rely on your representation of their entitlement to benefits or claims, whether you're right or wrong, don't you? Is that a yes?

A Yes."

(Please see Exhibit J, Deposition Transcript of Barbara Hinks, P.52, 53, 54, 55, 56, 57, 71, 72, 73, 74, 75).

Numerous witnesses have been deposed from case adjusters to Medical Management Unit supervisors and directors. Patricia Robbins, an executive with the Medical Management Unit responsible for setting reserves on insurance files was deposed. Ms. Robbins testified that it was her duty to explain benefits to the insured and to make sure that she was paying the appropriate rate that AAA would take advantage of their insureds by failing to pay family members the same rate that an agency received. ***(Please see Exhibit K, Deposition Transcript***

of Patricia Robbins, Pgs. 34 and 37).

Sandra Pope's deposition was taken. She is one of two people currently in charge of the Medical Management Unit at AAA. She testified that she was aware and the company was aware that people will rely on AAA and its adjusters in telling them what benefits that they are entitled to. She testified that she believed that the expectation is to explain the benefits that they're (insureds) entitled to. She agreed that it would be reasonable to trust and rely upon the statements made by adjusters as to what benefits that they were entitled to. She further testified that AAA's adjusters, claims specialists and management would be aware that from year to year, the rates paid for attendant care benefits would be increased because of cost of living increases. ***(Please see Exhibit L, Deposition Transcript of Sandra Pope, Pgs. 84, 85, 109 and 111).***

Carol Benn was also an executive claims representative supervisor with AAA and the Medical Management Unit. She testified in her deposition, that family members are entitled to be paid what an agency charges as opposed to what an aide gets. She testified that this is evolved over time but that AAA now does pay what the agency rates are. She further testified that the adjusters call various agencies to find out what the agency rates are. ***(Please see Exhibit M, Deposition Transcript of Carol Benn, P. 23 and 29).***

Ed Skrzycki an adjuster indicated in his deposition that it was his responsibility as the adjuster to make sure the insured knew what their rights were and for him to inform them of all of the claims and rights that they have. He further testified that AAA was responsible and obligated to pay for medical care being provided in the home and that the rates paid for that

care would changed from time to time. It should be pointed that the Defendant admits that under the No Fault Act, it is the obligation of the adjuster and the company to pay all benefits that are reasonable at a reasonable rate. Mr. Skrzycki testified that it was the policy of AAA as well as himself to look out for the best interest of the insured to make sure that they were not under compensated or over compensated. Finally, Mr. Skrzycki testified that even if an insured were to submit claims that were under valued, it was the responsibility of the adjuster to pay at the reasonable market rate even if less was asked for by the insured. ***(Please see Exhibit N, Deposition Transcript of Ed Skrzycki, Pgs. 30, 50, 52, 55, 56, 63, 64, 65 and 104).***

Elaine Kennedy another adjuster testified that she was aware that she had an obligation to inform AAA insured that was making a claim for benefits that their claim was under compensated if, in fact, they were claiming less than what the reasonable market rates would bear. ***(Please see Exhibit O, Deposition Transcript of Elaine Kennedy, Pgs. 52 and 54).***

Plaintiff has deposed some of the adjusters that handled this file on behalf of the Auto Club. They have admitted that the file has not been properly handled. That the conduct of the Defendant was not reasonable. That they did not have appropriate documentation to discontinue benefits and/or to underpay the benefits and further, that none of these adjusters explained to the family entitlement to all of their benefits.

In addition, several of the adjusters have been caught lying under oath. One of the records in the file indicates that Dr. Joe indicated that 16 hours of attendant care was necessary instead of 24 hours. As a result, the Defendant suspended eight hours of attendant care benefits without any medical documentation to support it. Plaintiff has produced the only prescription

in the file from Dr. Joe to AAA indicating that 24 hours is needed and will be needed for the rest of her life.

LIABILITY

Liability against this Defendant is one hundred percent. This Defendant has carried out a systematic plan of fraud and deception against the most catastrophically injured insureds in the State of Michigan. Their own adjusters, supervisors and medical management unit supervisors admit to the plan and the deception.

It is anticipated that Defendant will reference and rely upon the case Cameron v Auto Club, a Court of Appeals Decision which is currently pending before the Michigan Supreme Court. However, there is nothing in the Cameron v Auto Club case in the Court of Appeals or the Supreme Court that deals with the issues of fraud which Plaintiff has pled and which clearly get the Plaintiff to a jury on the issues of fraud.

DAMAGES

From the time that this claim occurred in 1978 to the present, the Defendant has continuously and systematically defrauded Ms. Coggins by failing to inform her or her family of all of the benefits that they were entitled to. This Defendant admits that the Plaintiff is entitled to receive attendant care, LPN care and be compensated for the fair market value of being a conservator and guardian as well as performing case management duties. The Defendant has only paid attendant care benefits at a despicably low rate.

Ths case truly exhibits the greed and fraud of an insurance company in an attempt to defray legitimate cost of claims.

This Defendant has never informed Ms. Coggins or her family that they were entitled to be compensated for attendant care at the fair market value. Defendant simply and unilaterally informed Ms. Coggins that they would pay $1,200.00 flat rate and then unilaterally made periodic adjustments up through the present time. Not knowing any better and trusting the insurance company, Ms. Coggins relied on their representations and accepted these despicable and fraudulent amounts of compensations.

From 1983 to the present, Ms. Coggins has been in need of 24 hour attendant care. Plaintiff has been able to calculate the attendant care rates paid by the Defendant to the Plaintiff from their file. From September of 1983 through September of 1989, the Defendant paid nothing at all for attendant care. From September 1983 to September 1984, the Defendant owed the customary market rate plus payment for overtime and weekend premium. This Defendant has admitted that overtime and weekend premiums are in fact paid for attendant care. The fair market rate in 1983 was $10.35 per hour. Plaintiff has calculated benefits on a 30 day calendar with two weekend days per week, 8 total per month with time and a half for 16 hours per day and time and a half for 24 hours each weekend for a total $115,246.08 for the years 1983 through 1989. From 1989 to 1999, the Defendant paid a flat rate of $1,200.00 per month without any raises whatsoever in a ten year period of time.

In 1989, the fair market value for attendant care was $11.00 per hour. Giving the Defendant credit for the $1,200.00 per month they paid to the Plaintiff, the Defendant underpaid or owes $108,096.00 for the year 1989. For the years 1990 to 1993, the Defendant owed $119,232.00 per year. For the year 1994 to 1997, the Defendant owes or underpaid

$130,368.00 per year. For the year 1998, the Defendant owes or underpaid $152,640.00. In 1999, the Defendant began paying $7.50 per hour or $3,600.00 per month by the Defendant's own admission. Leaving a shortfall or amount owing $123,840.00 for 1999. For the year 2000 to the present, the Defendant would owe Plaintiff $200,448.00 per year in attendant care benefits. Giving the Defendant credit for approximately $50,000.00 per year in paid benefits, the Defendant would still owe from the year 2000 to the present $150,000.00 per year in unpaid attendant care benefits.

1983	$ 115,246.08
1984	$ 115,246.08
1985	$ 115,246.08
1986	$ 115,246.08
1987	$ 115,246.08
1988	$ 115,246.08
1989	$ 108,096.00
1990	$ 119,232.00
1991	$ 119,232.00
1992	$ 119,232.00
1993	$ 119,232.00
1994	$ 130,368.00
1995	$ 130,368.00
1996	$ 130,368.00
1997	$ 130,368.00
1998	$ 152,640.00
1999	$ 123,840.00
2000	$ 150,000.00
2001	$ 150,000.00
2002	$ 150,000.00
2003	$ 150,000.00
2004	$ 150,000.00
2005	$ 150,000.00
Total Unpaid Attendant Care Benefits	$ 2,974,452.48
Interest 12% no fault - 5% statutory	$ 5,872,107.91
Unpaid Guardianship/Conservatorship and Case Management Fees	$ 400,000.00
	$ 9,246,560.39

Plus one-third attorney fees ..... $ 3,082,186.80
Total Amounts Owed $12,328,747.19

The above amounts do not take into consideration Guardianship fees, Conservatorship fees or case management fees which for the last 28 years, would be hundreds of thousands of dollars in unpaid benefits and interest. In addition, Plaintiff is entitled to a one-third attorney fee.

FACILITATION AWARD DEMAND

Plaintiff would demand a facilitation award in the amount of $12,328,747.19.

Respectfully submitted,

THOMAS, GARVEY, GARVEY & SCIOTTI

JAMES McKENNA (P41587)
Attorney for Plaintiff
24825 Little Mack
St. Clair Shores MI 48080
586-779-7810

Dated: June 13, 2006

MESSAGE:
DIRE-IJM INJURY MEMO INFORMATION 07/01/04 08:37:20
CLAIM NO: RA 025824-A CLID: 01 PAGE: 002 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS
REQUESTED PERMISSION FROM 'MRS. GIBSON" FOR EVERYTHING, INCLUDING MOVING FROM ONE SPOT ON THE SOFA TO ANOTHER. MRS. GIBSON INFORMED ME THAT CLID JUST STARTING WALKING SINCE SHE HAS BEEN HER THE GIBSON CARE. CLID HAS EVEN MENTIONED THAT SHE WANTS TO LEARN TO COOK. FROM MY OBSERVATION, THIS WOULD BE A MONUMENTAL TASK. CLID GOT UP TO MOVE ABOUT, AND WITHOUT THE AIDE OF A WALKER, WAS FALLING AND LEANING ON THE WALLS OF HER HOME FOR FOR SUPPORT. CLID IS IN CONSTANT NEED OF 24 HR CARE AND MONITORING. SHE CANNOT DRESS HERSELF, DO PERSONAL HYGIENE OR ANYTHING.
-- THERE ARE NO APPTS SCHEDULED WITH ANY DOCTORS, AS DOCTORS FEEL THAT CLID HAS REACH A MAXIMUM FOR CARE. SHE IS PRESENTLY TALKING SLEEPING PILLS, AT NIGHT, AND ANTIBIOTICS DURING THE DAY FOR DIFFICULITIES WHICH MAY/MAY NOT BE RELATED TO THIS CLAIM. AAA HAS NOT BEEN PRESENTED WITH ANY BILLS FOR REIMBURSEMENT.
MRS. GIBSON TAKES CLID TO CHURCH, SHOPPING, AND DURING THE DAY, WILL ASSIST HER WITH READING, AND OTHER SKILLS TO TRY AND GET CLID FUNCTIONAL AGAIN. CLID'S CHILDREN DO NOT COME AROUND, NOR DOES MR. COGGINS. MRS.

TOTAL PAGES: 097 NEXT PAGE:
WLES: APAC: CHK REQ: DLY DRY: DIARY:
MENU: CLAIM NO: CLID NO: VEH NO: ICE: RES ACT: INT RES:

MESSAGE:
DIRE-IJM INJURY MEMO INFORMATION 07/01/04 08:37:24
CLAIM NO: RA 025824-A CLID: 01 PAGE: 003 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS
GIBSON TOOK CLID OVER TO HER DAUGHTER'S HOME, AND CLID'S DAUGHTER WOULD NOT OPEN THE DOOR TO LET THEM VISIT. CLID BECAME VERY UPSET, AND STARTED TO CRY. MRS. GIBSON STATED' SHE WILL NOT SUBJECT CLID TO THIS KIND { OF HURT AGAIN'. CLID HAS FLASH BACKS EVERY NOW AND THEN OF THINGS IN HER PAST, BUT DOCTORS HAVE INDICATED , CLID WILL NEVER BY 100 PER CENT FUNCTIONAL AGAIN.
-- BASED ON THE ABOVE OBSERVATION, I SEE NO REASON TO ALTHER BENEFITS AT THIS TIME. OK TO CAL BENEFITS FOR THE MONTH OF JUNE, AND PLACE FILE ON DIARY FOR JULY -19-91 HUMPHRIES

06-19-91 TAB REVIEW. RSALKEMA
07-24-91 FILE REVIEWED FOR MRR. LOOKS GOOD. R VOGT
7-24-91.. OK TO CALCULATE BENEFITS FOR THE MONTH OF JULY. NDD: 8-22-91 HUMPHRIES
8-22-91. OK TO CALCULATE HOME CARE BENEFITS FOR THE MONTH OF AUG. NDD: SEPT. 24-1991 HUMPHRIES

WLES: APAC: CHK REQ: TOTAL PAGES: 097 NEXT PAGE:
MENU: CLAIM NO: CLID NO: VEH NO: DLY DRY: ICE: RES ACT: DIARY: INT RES:

MESSAGE:
DIRE-IJM
INJURY MEMO INFORMATION 07/01/04 08:37:48
CLAIM NO: RA 025824-A CLID: 01 PAGE: 014 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS
STATES, ON THE LAST VISIT TO DR. GUIDICE,SHE DEMANDED THAT CLID
BE TAKEN OFF MED 'HALADAL' BECAUSE OF THE SIDE EFFECTS.
AND DR. GUIDICE TOOK CLID OFF.
CLID IS NOW PROGRESSING VERY WELL. GUARDIAN IS ABLE TO
BETTER WORK WITH CLID, AND OBTAIN CONTROL WITH REGARDS TO BEHAVIOR.
- CLID IS NOT SCHEDULED FOR FOLLOW UP UNTIL JULY.
- OK TO CALCULATE THE HOME CARE CHECK FOR THIS MONTH. S. HUMPHRIES
--
6-2-94.. STATUS.. INSD'S CONDITON REMAINS THE SAME. SHE IS ABLE TO
AMBULATE FAIRLY WELL, YET STILL REQUIRES 24 HRS OF SUPERVISED
CARE. WE ARE PAYING A FLAT MONTHLRY RATE TO DORIS GIBSON, LEGAL
GUARDIAN FOR THIS CARE.
--
LAST CIB WAS 1-17-94.. .. WILL REQUST AGAIN IN ONE YEAR., RATHER THAN
SIX MONTHS. SHIRLEY HUMPHRIES
6-28-94.. SINCE I WILL BE ON VACATION, I AUTHORIZED PAYMENT OF THE NEXT

WLES: APAC: CHK REQ: TOTAL PAGES: 097 NEXT PAGE:
MENU: CLAIM NO: CLID NO: VEH NO: DLY DRY: ICE: RES ACT: DIARY: INT RES:

MESSAGE:
DIRE-IJM INJURY MEMO INFORMATION 07/01/04 08:38:15
CLAIM NO: RA 025824-A CLID: 01 PAGE: 026 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS
WELL. ACCORDING THE PRIOR MEDICAL ON THIS CLID, HER CONDITION STILL WARRANTS 24 HRS MONITORING. IT APPEARS THE DAUGHTER, MS COGGINS HAS BEEN SUCCESSFUL IN GETTING INSD STABILIZED. THUS, THE BENEFIT WILL CONTINUE. ** THE IDEA ABOUT GETTING INSD INVOLVED IN IRVINE DAY TX PROGRAM HAS BEEN PUT ON THE BACK BURNER AT THIS TIME.
-- I WILL BE MAKING ANOTHER HOME VISIT SOMETIME IN THE SPRING.
SHIRLEY HUMPHRIES
****** WE HAVE NO NEW MEDICAL *****
1-12-96.. CARE GIVER WILL BE ON MONDAY TO REVIEW THE COPY OF THE SIGNED CHECK SHE REPORTED AS BEING STOLEN. I WILL CHECK HER DRIVER'S LICENSE FOR SIGNATURE, AND HAVE HER TO SIGN PAPERS THAT IF IT IS DETERMINED INFORMATION IS INCORRECT, WE WILL SEEK RECOVERY. FILE WILL BE DISCUSSED WITH MANAGEMENT. S. HUMPHRIES

1-15-96.. FILE WAS DISCUSSED WITH MR. HIGLEY CONCERNING HOW WE SHOULD PROCEED WITH THE ABOVE. SEE NEXT PAGE...

TOTAL PAGES: 097 NEXT PAGE:
WLES: APAC: CHK REQ: DLY DRY: DIARY:
MENU: CLAIM NO: CLID NO: VEH NO: ICE: RES ACT: INT RES:

MESSAGE:
DIRE-IJM

INJURY MEMO INFORMATION 07/01/04 08:38:45

CLAIM NO: RA 025824-A CLID: 01 PAGE: 044 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS

09-13-01 I AM COMPLETING CHECK REQUEST FOR ATTENDANT CARE FOR MONTH OF SEPTEMBER, $4320. LEE BERTOIA (MMU,TEMP)

10-09-01 FILE NOTED FOR HOME CARE. IS THERE A RECENT MED REPORT OUTLINING THE HOME CARE NEEDS? WAS A FAMILY PROVIDED ATTENDANT CARE FORM COMPLETED? SPOPE-MMU (248)386-3429

10-16-01 FAMILY PROVIDED ATTENDANT CARE RECORD IS COMPLETED. LAST DR. REPORT WAS 1-8-99, DR. JOE STATES CONDITION WILL NOT CHANGE AND SUPERVISION IS REQUIRED AT ALL TIMES. HOURLY RATE IS $9.00. LEE BERTOIA, MMU,TEMP.

10-22-01 FILE NOTED AND CAN BE RETURNED TO THE BRANCH. ALL PAYMENTS REVIEWED AND NO INT OWED. SPOPE-MMU (248)386-3429

10-23-01 ELECTRONICALLY ASSIGNED CLAIM TO CN. PER W WHITE ALL MMU RETURNS ARE HANDLED AT HIS LOCATION SO WE WILL MAIL THE FILE TO DB. SPOPE-MMU (248) 386-3429

10-30-01 ONLY BRANCH FOLDER BEING MAILED TO DB, NO MMU FILE SET UP. SACORD/MMU

11/3/01 ANDY, PAY THE ATTENDENT CARE THRU THE END OF THE YEAR UNTIL YOU GET A CHANCE TO REVIEW THE CLAIM..WHITE,W,,DB

WLES: APAC: CHK REQ: TOTAL PAGES: 097 NEXT PAGE:
MENU: CLAIM NO: CLID NO: VEH NO: DLY DRY: ICE: RES ACT: DIARY: INT RES:

MESSAGE:
DIRE-IJM

INJURY MEMO INFORMATION 07/01/04 08:39:04

CLAIM NO: RA 025824-A CLID: 01 PAGE: 055 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS

BASED OFF COPY OF ORIGINAL DOL IT APPEARS INSUREDS INITIAL INJURIES WERE CRITICAL CONDITION #1, 6 BROKEN RIBS, FRACTURED SKULL, FRACTURED JAW LOSS OF RIGHT EYE, SPINAL CORD BROKEN IN 2 PLACES INCLUDED INTERNAL INJURIES. WE CURRENTLY PAY NURSING CARE ON THIS FILE. IT APPEARS THE PREVIOUS HANDLING ADJUSTER TRIED TO SET UP A HOME VISIT TO ASSESS THE NEED FOR HOME CARE WHICH INLUDES THE HOURS AND AMT. AN APPOINTMENT WAS SET UP WITH THE INSURED'S DAUGHTER TAMIKA BUT IT APPEARS SHE GAVE OUR ADJUSTER THE RUN AROUND. NURSING CARE WAS PAID IN ADVANCE NEXT PAYMENT IS NOT DUE UNTIL THE BEGINNING OF MARCH. THE NUMBERS THAT ARE IN THE FILE AND MEMO ARE NOT CURRENT FOR CONTACTING INSURE. I LEFT A MESSAGE ON AN ANSWERING MACHINE BUT I'M NOT SURE IF IT WAS THE RIGHT NUMBER. LETTER HAS BEEN SENT BACK FROM A DRS OFFICE REQUESTING A CURRENT NARRATIVE ON INSURED IT STATES THAT THIS DELIVERY AREA IS NOT SERVICED BY BIRMINGHAM. WILLTRY TO RESEND. IN THE MEANTIME I WILL SEND A LETTER TO INSURED REQUESTING CURRENT TREATING DRS INFO AND MEDICAL AUTHORIZATION (UPDATE) UPON RECEIPT WILL FORWARD TO TREATING DR TO OBTAIN CURRENT

WLES: APAC: CHK REQ: TOTAL PAGES: 097 NEXT PAGE:
MENU: CLAIM NO: CLID NO: VEH NO: DLY DRY: ICE: RES ACT: DIARY: INT RES:

MESSAGE:
DIRE-IJM

INJURY MEMO INFORMATION 07/01/04 08:39:12

CLAIM NO: RA 025824-A CLID: 01 PAGE: 060 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS

INSURED DEFINITELY NEEDS THE SUPERVISION. SHE WILL SET UP IME APPOINTMENT AND ADVISE ME OF PLACE AND TIME. TLUCAS/FH
04-17-03 RECEIVED A CALL FROM KATHY METCALF (CASE MANAGER). SHE'S CONTACTED 3 IME DRS AND THEY REFUSE TO TAKE HER BECAUSE THIS FILE IS SO OLD AND THEY HAVE NO HISTORY ON HER. THIS FILE WAS RETURNED FROM MMU EARLIER THIS YEAR. THEY ONLY SENT 1 VOLUME. THERE HAS TO BE MORE VOLUMES DUE TO THE DATE OF LOSS. I HAVE CONTACTED STORAGE. THIS FILE WAS INITIALLY IN MMU. BASED OFF THE INSURED'S INITIAL INJURIES--------CRITICAL CONDITION, 6 BROKEN RIBS, FRACTURED SKULL, FRACTURED JAW, LOSS OF RIGHT EYE, SPINAL CORD BROKEN IN 2 PLACES, INTERNAL INJURIES AND IN A COMA FOR 6 MOS. THERE ARE NO CPS NOTES PRIOR TO 1991, SO MMU HAS RETURNED THIS FILE BACK TO THE BRANCH. WE ARE PAYING A LARGE AMOUNT TO THE INSURED'S DAUGHTER MONTHLY TO TAKE CARE OF THE INSURED. I AM QUESTIONING THE HOURS OF SUPERVISION NEEDED, BUT I NEED SOME HISTORY ON INSURED. EMAIL SENT TO MANAGER DGREEN REGARDING THE ABOVE. TLUCAS/FH
04-17-03 STORAGE HAS FILE AND WILL SEND. TLUCAS/FH 248 488-2518

TOTAL PAGES: 097 NEXT PAGE:

MENU: WLES: APAC: CHK REQ: DLY DRY: DIARY:
CLAIM NO: CLID NO: VEH NO: ICE: RES ACT: INT RES:

MESSAGE:
DIRE-IJM

INJURY MEMO INFORMATION 07/01/04 08:39:18

CLAIM NO: RA 025824-A CLID: 01 PAGE: 064 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS

O6-06-03>>>>>>>>M C C A<<<<<<<< RECEIVED LETTER DATED 5/16/03 FROM MCCA IN REGARDS TO $38.12 PYMT MADE ON 4/17/03 TO SMART DOCUMENT SOLUTIONS. TERRI, PLEASE ADVISE IF THIS SHOULD HAVE BEEN PAID UNDER AN EXPENSE CODE. MCCA DIARY DATE 7/5/03...PATTIELONG FH CLAIM SPECIALIST
CORRECTION 7/7/03

O6-09-03 RECEIVED IME REPORT FROM DR DESANTIS WHICH STATES THAT ANNIE IS IN NEED OF 24HR SUPERVISION. SHE HAS LIMITED INSIGHT AND SIGNIFICANTLY DECREASED PROBLEM SOLVING. SHE IS AWARE AND WAS ABLE TO TELL HER THAT SHE COULD CALL 911 IN THE CASE OF AN EMERGENCY, BUT SHE COULD NOT GIVE ME ANOTHER PROBLEM SOLVING STEP WHICH WOULD BE TO LEAVE A BURNING BUILDING IF IT WAS ON FIRE. SHE GOES ON TO SAY INSURED SHOULD FOLLOW-UP WITH A REHAB PHYSICIAN ONCE EVERY YEAR OR SO. SHE SHOULD CONTINUE WITH HER INTERNIST ON A REGULAR BASIS. TLUCAS/FH

O6-11-03 RECIEVED ATTENDANT CARE LOG SHEET. WILL STILL ISSUE CHECK FOR HALF THE AMOUNT BECAUSE THE CLAIM IS STILL BE INVESTIGATED WITH CIU. HOPEFULLY WE WILL KNOW SOMETHING SOON. TLUCAS/FH 248 488-2518

WLES: APAC: CHK REQ: TOTAL PAGES: 097 NEXT PAGE:
MENU: CLAIM NO: CLID NO: VEH NO: DLY DRY: ICE: RES ACT: DIARY: INT RES:

MESSAGE:
DIRE-IJM
INJURY MEMO INFORMATION 07/01/04 08:39:24
CLAIM NO: RA 025824-A CLID: 01 PAGE: 068 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS
09-03-03 HANDLING ADJ. BLIGHTFOOT/FH FOR TLUCAS/FH 248-488-2518.
09-11-03 NOTED FILE FOR UPDATED INFO. THIS FILE WAS HANDLED AT MMU AT THE ONSET, THEN TO LNCC FOR MAINT HANDLING. HOWEVER, THIS CLID SUFFERED A CHI, AND THIS FILE SHOULD BE REFERRED TO THE MMU-II UNIT FOR HANDLING. ONGOING INVESTIGATION REGARDING HOME CARE NEEDS TO BE UPDATED WHEN INFO IS RECEIVED AT MMU-II. SEE ME IF ANY QUESTIONS. KNICHOLLS/LPFH
9-19-03 FILE SENT TO MMU-II PER ABOVE MEMO. K MARSHALL/FH
9-30-03 CIU INVESTIGATION CONTINUES SCHUITEMA CIU/MU

10/10/03 - RECEIVED REASSIGNED FILE. REVIEWED FILE. ANNIE COGGINS SUSTAINED A SEVERE TRAUMATIC BRAIN INJURY WITH RIGHT HEMIPLEGIA. AT THIS TIME, HER DAUGHTER, TAMIKA COGGINS, WHO IS HER LEGAL GUARDIAN, HAS BEEN PROVIDING HOME CARE (SUPERVISION) TO HER MOTHER. THERE ARE SEVERAL ISSUES GOING ON IN THIS FILE: 1. THE PREVIOUS FILE HANDLER HAS DISPUTED THE AMOUNT OF HOME CARE HOURS THE DAUGHTER IS PROVIDING TO HER MOTHER.(TOTAL HOURS IS 16 PER DAY). 2. DUE TO THAT DISPUTE, THE PREVIOUS FILE HANDLER STARTED AN INVESTIGATION

WLES: APAC: CHK REQ: TOTAL PAGES: 097 NEXT PAGE:
MENU: CLAIM NO: CLID NO: VEH NO: DLY DRY: ICE: RES ACT: DIARY: INT RES:

MESSAGE:
DIRE-IJM INJURY MEMO INFORMATION 07/01/04 08:39:25
CLAIM NO: RA 025824-A CLID: 01 PAGE: 069 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS
10/10/03 (CONTINUED...) INTO WHETHER THE DAUGHTER WAS ACTUALLY GIVING HER MOTHER 16 HOURS OF SUPERVISED CARE PER DAY. 3. THE PREVIOUS FILE HANDLER REFERRED FILE TO CIU (WHICH IS CURRENTLY UNDER INVESTIGATION) TO TRY & DETERMINE IF THE CARE IS BEING GIVEN. 4. RECEIVED A SCRIPT FROM MEDICAL CENTER HEALTH CARE PROVIDERS DATED 4/14/03 INDICATING THAT ANNIE REQUIRES 24 HOURS OF SUPERVISED CARE. 5. PREVIOUS HANDLER DISPUTED THE SCRIPT AS THIS WAS A NEW DOCTOR THE DAUGHTER TOOK HER MOM TO SEE AND NEEDED TO KNOW HOW COULD HE INDICATE SHE NEEDED 24 HOURS WHEN THIS WAS HIS FIRST TIME EXAMINING HER. 6. IN THE MEANTIME, IT WAS DECIDED THAT UNTIL THERE WAS CONCRETE INFORMATION ON THE NUMBER OF CARE HOURS, THAT THE HOME CARE WAS GOING TO BE CUT IN HALF UNTIL FURTHER INFORMATION WAS OBTAINED. 7. FILE WAS REFERRED TO CIU TO CONDUCT AN INVESTIGATION IN TO IF THE CARE WAS ACTUALLY BEING GIVEN. 8. CASE MANAGER WAS HIRED (TEMPORARILY) TO ASSIST IN GATHERING MEDICAL DOCUMENTATION & TO SCHEDULE AN I.M.E. TO DETERMINE NUMBER OF CARE HOURS. 9. CASE MANAGER MET WITH ANNIE & THE DAUGHTER AND REPORTED BACK TO THE PREVIOUS FILE HANDLER THAT ANNIE DEFINITELY NEEDED SUPERVISED CARE. (THE CASE MANAGER IS A RN). 10. I.M.E. WAS

TOTAL PAGES: 097 NEXT PAGE:
WLES: APAC: CHK REQ: DLY DRY: DIARY:
MENU: CLAIM NO: CLID NO: VEH NO: ICE: RES ACT: INT RES:

MESSAGE:
DIRE-IJM

INJURY MEMO INFORMATION 07/01/04 08:39:26

CLAIM NO: RA 025824-A CLID: 01 PAGE: 070 TOTAL CLIDS: 02 DOL: 07 22 78
INJ NAME: ANNIE COGGINS

10/10/03 (CONTINUED....) WAS SCHEDULED WITH DR. NANCY DESANTIS WHEREIN SHE INDICATED THAT ANNIE NEEDED 24 HOURS OF SUPERVISED CARE. HOWEVER, PREVIOUS FILE HANDLER STILL PAID THE HOME CARE AT HALF THE HOURS PENDING INVESTIGATION FROM CIU. THIS BRINGS US TO PRESENT.....
RECEIVED PHONE CALL FROM TAMIKA COGGINS - (H) 586-992-3683 (C) 313-657-6693. SHE GAVE ME HER VERSION OF THE PROBLEMS SHE HAS BEEN FACING ON THE CLAIM SINCE APRIL 03. SHE INDICATES THAT WHEN SHE PROVIDES SUPERVISED CARE TO HER MOTHER. SHE FURTHER STATES IT'S AS IF HER MOTHER IS A LITTLE CHILD.
SHE ALSO ADVISED THAT NORMALLY WHEN SHE GOES OUT, SHE TAKES HER MOTHER WITH HER. BUT WHEN SHE GOES OUT ALONE, HER SISTER WILL WATCH HER MOTHER OR HER HUSBAND WILL WATCH HER. SHE STATES SHE IS REPRESENTED BY AN ATTORNEY AND HIS NAME IS GERALD SCHNEIDERMAN, 26339 WOODWARD, HUNTINGTON WOODS, MI 48070 - (248) 548-1200. SHE INDICATES HE ASSISTED THEM IN OBTAINING GUARDIANSHIP OVER HER MOTHER AND SHE CONTACTED HIM BECAUSE SHE WASN'T GETTING ANYWHERE WITH AAA AND NO ONE WAS TELLING HER ANYTHING. ADVISED HER I WOULD GIVE MR. SCHNEIDERMAN A CALL & DETERMINE WHAT IS GOING ON. I SPOKE WITH THE ATTORNEY ON 10/9/03.

WLES: APAC: CHK REQ: TOTAL PAGES: 097 NEXT PAGE:
MENU: CLAIM NO: CLID NO: VEH NO: DLY DRY: ICE: RES ACT: DIARY: INT RES:

AUTO CLUB INSURANCE ASSOCIATION
AUTO CLUB GROUP INSURANCE COMPANY
AUTO CLUB CASUALTY INSURANCE COMPANY
AUTO CLUB DRIVE/DEARBORN, MICHIGAN 48126

Michigan

MICHIGAN MOTOR VEHICLE NO-FAULT INSURANCE LAW

ATTENDING PHYSICIAN'S REPORT

Date	Our Policyholder	Date of Accident	File Number
02-19-86	James Coggins	07-22-78	RA 25824

Dr. Morris
17117 W. 9 Mile Rd. Suite 1230
Southfield, MI 48075

Regarding: Annie Coggins

To assist us in determining benefits due under the Michigan Motor Vehicle No-Fault law, the attending physician must complete this report. You are required to provide this information in accordance with the Michigan Motor Vehicle No-Fault Insurance law, P.A. 294 of the Public Acts of 1972.

Patient's Name and Address
Annie Coggins 12074 Pinehurst Detroit, Mich.

Age	Occupation/Job Description
45	Housewife

History of Occurrence and Injury as Described by Patient
7/22/78 - Ran her Auto into basement of a home @ Pinehurst & Hamtar - Multiple Fx. lost R eye closed head injury

Diagnosis and Concurrent Conditions* Closed Head Injury, Loss of Vision R Eye. Multiple Fractures - Ribs, Clavicle, Mandible, L leg.

When did symptoms first appear?	When did patient first consult you for this condition?
Date: 7/22/78	Date: 1/2/86

Have you treated patient before this date? If yes, when?
No

Has patient ever had same or similar condition? If yes, state when and describe*
☐ Yes ☒ No ☐ Undetermined

Is patient able to perform routine household chores? If no, please explain and indicate projected duration of inability.
☐ Yes ☒ No She needs full time household assistance - poor Roadway

Will patient require attendant care? If yes, please explain and indicate projected duration.
☒ Yes ☐ No ☐ Undetermined - Permanent

Patient was unable to work	If still disabled, patient should be able to return to work on
From: 7/22/78 Through: Present	Date: Permanent Disability

*Use a separate sheet if necessary

GENERIC SUBSTITUTE ALLOWED ☐YES ☐NO

℞ Dx: Closed Head Injury

Pt. will need Home Health Care for one year

REFILL _____ TIMES – DO NOT RENEW ☐

GENERIC SUBSTITUTE ALLOWED ☐YES ☐NO

℞ 24 hour Care

Claim #
RA025824-01

REFILL _____ TIMES – DO NOT RENEW ☐

Medical Center Health Care Providers, P.C.
3600 WOODWARD AVE., SUITE 502, DETROIT, MICHIGAN 48201
PHONE (313) 831-3300

DATE 4-14-03

Watkins Annie
353232-01
4-29-41

PHARMACY

Sig:

M.D. OR D.O.

REGISTRATION NO.

GEORGE MOGILL, M.D.
GRACE FAMILY PRACTICE CENTER
28454 WOODWARD AVENUE
ROYAL OAK, MI 48067
(248) 543-7770 OFF.
(248) 544-3032 RES.
DEA # AM 2789707

NAME Annie Warren C AGE ____

ADDRESS ____ DATE 10/1/01

℞ SS# 368 44 1801

Pt. has closed head injury & disabled & in need of continued home care

Refill ____ times

(signature)

Another brand of generically equivalent product, identical in dosage form and content of active ingredients, may be dispensed unless box is initialed D.A.W. ☐

9IFP5096R17

Food

Hygiene oil

Feeding oil

DEARBORN CLAIMS
01 NOV -2 AM 9:35

DEPOSITION EXHIBIT
#3
4-22-05 SR

GEORGE MOGILL, M.D.
GRACE FAMILY PRACTICE CENTER
28454 WOODWARD AVENUE
ROYAL OAK, MI 48067
(248) 543-7770 OFF.
(248) 644-3833 RES.
DEA # AM 2769707

NAME Annie Coggins AGE

ADDRESS DATE 9/13/00

℞

Cortisporin topical

Because pt

closed head

injury

Refill times

(signature)

Another brand of generically equivalent product, identical in dosage, form and content of active ingredients, may be dispensed unless box is initialed D.A.W.

9GFP5096937

MMW

Lonnie Joe, Jr., M.D.
15901 W. NINE MILE RD., SUITE 400
SOUTHFIELD, MICHIGAN 48075
TELEPHONE: (313) 557-5227

January 8, 1999

AAA Michigan
37383 Six Mile Road
Livonia Michigan 48152-2775

Lucretia Hoye
Sr. Claims Representative
Livonia Branch

RE: Annie Coggins

In response to your questions;

As per this patient's history and on-going medical condition which will not change:

1. Supervision is reequired at all times.

2. No.

3. While she is speeping is not the problem. Someone should be present if she awakens.

Reccomend:

Social service evaluation is highly reccomended, since these questions pertain mostly to that aspect of this patient's cure.

If there are any further questions pleas feel free to contact this office.

Thank you,

Lonnie Joe Jr., M.D.

Lonnie Joe, Jr., M.D.
15901 W. NINE MILE RD., SUITE 400
SOUTHFIELD, MICHIGAN 48075
TELEPHONE: (313) 557-5227

June 8, 1998

RE; Annie Watkins-Coggins
SS# 386-44-1801

Annie Watkins-Coggins is currently being treated for the following;

1. Cerebral Contusion
2. Organic Brain Syndrome
   (second to Cerebral Contusion)
3. Seizure Disorder
   (second to Cerebral Contusion)

She requires supervision and assistance with the following:

1. Housekeeping and shopping.
2. Meal preparation
3. Medication administration

If any further information is required, please feel free to call the office at the above number.

Thank you,

Lonnie Joe Jr., M.D.

JUN 03 2003

Sherry L. Viola, M.D.
Randi J. Long, M.D.
Nancy M. DeSantis, D.O.
1777 Axtell Rd., Suite 107, Troy, Michigan 48084
Phone: (248) 649-0450
Fax: (248) 649-1238

Patient Name Annie Coggins Date 5/30/03

Dx: TBI
Significant cognitive deficits

Recommendations
24hr supervision
Continue to attend avocational/recreational activities with supervision.

F/u ε PM&R 1x/yr

mailed to: 48034

Dr. Signature
DEA No. NMDesantis DO Times
Beaumont Medical Staff Member

FAXED

Brown Reh
24688 Telegraph
Attn: Kathy Macarstic 133 S.P.

FARMINGTON HILLS CLAIMS
03 JUN -4 AM 8:39

JOANN . . .

THIS CLID SUSTAINED A MAJOR CLOSED HEAD INJURY SOME YEARS AGO. SHE HAS GONE THROUGH EVERY FORM OF TREATMENT IMAGINABLE AND TO DATE SHE HAS ONLY REACHED THE LEVEL OF A 10 YR OLD. SHE IS NOT CAPABLE OF LIVING ALONE. THEREFORE, IS PRESENTLY RESIDING WITH HER DAUGHTER TAMIKA WHO PROVIDES THE NECESSARY MONTHLY CARE.
PLEASE REFER TO THE MEMO SCRNS FOR ADDL UPDATE.
SHIRLEY HUMPHRIES

AAA Michigan

100 years OF SERVICE — Founded as a national organization in 1902.

AAA Michigan - Dearborn Claims
18800 Hubbard Drive
Dearborn, Michigan 48126-2694

Claims Services 313/436-7206
Fax 313/436-7236

August 28, 2002

Century 21 – Park Avenue
Attn: Ms. Kiko Esclavada

RE: Injured Party: Annie Coggins
File No: RA 025824
Date of Loss: 07/22/78

Dear Ms. Esclavada:

This is to inform you that we are paying Ms. Tomika Coggins, daughter to Annie Coggins, between $4560.00 - $4712.00 per month for attendant care benefits.

These benefits are due and owing as a result of the injuries that Ms. Coggins sustained in her motor vehicle accident on July 22, 1978. They will most likely continue for the remainder of her life or until such a time that her physician no longer feels she is in need of this type of care.

Should you need anything further, please contact me at 313/436-7216.

Sincerely,

Brenda L. Chretien

Brenda L. Chretien
Claim Specialist
Dearborn Branch

/blc

RENEE K. LAPORTE, PhD., RN., CCM., CBIS.
Forensic/Medical Case Management

PO Box 510780
Livonia, MI 48151-6780
(734) 591-1826
(734) 591-1836 - Fax
managedcareplus@comcast.net

September 6, 2005

James McKenna
Thomas, Garvey, Garvey & Sciotti
24825 Little Mack
St. Clair Shores, MI 48080-3218

RE: Your client; Annie Coggins
DOB: 4/29/41
DOL: 7/22/78

ATTENDANT CARE EVALUATION
September 5, 2005

Annie Coggins is a 64 year old female who was involved in an MVA on 7/22/78, at 37 years of age. *Information contained within this report was obtained through available medical records/reports and through personal interview of her guardian, Tamika Coggins.*

Annie was reported to have suffered a TBI and under went inpatient treatment at Detroit Osteopathic Hospital that included a tracheostomy and the evacuation of a subdural hematoma in September 1978. She was reported to have remained in a coma for about one week. Other injuries reported included a fractured jaw, loss of 5 teeth, fractured ribs, facial and body lacerations, and the partial enucleation of her right eye. She was then transferred on 9/25/78 for inpatient TBI rehab to Southfield Rehab Hospital. On 3/23/79 Annie was discharged home from rehab and was followed by neurologist, Mary Ann Guidice, MD. It was reported that she was later admitted to the Rehab Institute of Michigan (RIM) on 8/2/83 for further inpatient rehab and discharged on 9/8/83 under the attendant care of her mother. At the time of this discharge Annie was reported to be apraxic with a poor memory and problem solving skills. She was reported to be unsafe in the kitchen and could only follow one step directions. She was able to provide for her own personal ADLs, such as feeding, grooming and dressing, but required supervision and verbal guidance to complete the tasks. She was able to ambulate without any assistive devices.

On 6/8/79 Annie followed up with Claude Oster, DO, a PMR specialist at the Polyclinic Associates. He reported she was demonstrating some continued significant improvement and was more alert and responsive. He reported she was complaining of pain in her left lower extremity and was limping on her left side upon ambulation. He felt this was due to some minimal paralysis 2nd to

her head injury. She was advised to continue her home program and to be rechecked in 3 months. Her prognosis was reported to be excellent.

On 8/10/91 and 8/19/91 it was reported that Elyse Madgy RN, that an OTR and a member of her nursing staff met with Annie and her ex-husband in her home. It was reported that Annie was currently living with her mother and 4 children. It was reported that since her MVA Annie had many personality changes and her behavior had regressed to the level of a young child. It was reported that she took no initiative on her own for her everyday activities. She also had reported memory deficits. The OT reported that Annie was capable of performing all self-care activities. ***It was reported that Annie required constant supervision in the form of a babysitter for her poor judgment and safety.*** Because of her child-like behavior it was recommended that she under go a neuropsychological evaluation. SLP, a sheltered workshop for her ADLs and the big sister program were also recommended.

On 9/17/81 Annie underwent a neuropsychological evaluation with John Blasé, PhD. He reported that she had been under the care of her husband and a full time assistant since her discharge from the hospital on 3/23/79. It was reported that she had 4 children ranging in age from 17 to 8 years old. ***Dr. Blasé reported that in summary, Annie was demonstrating a number of significant deficits on the basis of the neuropsychological testing.*** She did exhibit some strengths so he felt that she was able to participate in some rehab program. He reported that the testing indicated that she was functioning in the mentally defective range of intelligence with a full scale IQ of 61. It was reported that testing indicated more severe impairment of the left hemisphere functions which accounted for her impaired motor functions on the right side as well as her pronounced aphasia. It was suggested that she given the opportunity to participate in a sheltered workshop program.

On 3/26/82 Elyse Madgy reported that one of her nursing staff visited Annie at Harper Hospital. Angie Freeman and Annie's mother were also present. It was reported that Annie was admitted to Harper Hospital on 3/21/82 under the care of Dr. Guidice to evaluate her for hydrocephalus and begin medications for her euphoric state and inappropriate affect.

On 4/1/82 Elyse Madgy reported that a member of her nursing staff visited Annie at Harper Hospital, and also met with Dr. Guidice and social worker, Nancy Iles. The neuropsychological testing performed by Anthony Petrelli, MD showed bilateral cerebral dysfunction, severe reading disability, a verbal IQ of 53, performance IQ of 67, and ***a full scale IQ of 57, indicating moderate mental retardation.*** She showed severe impairment in math and spelling and a decrease in motor strength. She had short and long term memory deficits and paranoid ideas. Dr. Petrelli recommended a structured living situation and a behavior modification program.

On 4/14/82 Elyse Madgy reported that a member of her nursing staff attended a family discharge meeting at Harper Hospital for Annie to coordinate her discharge, her home care needs and physician recommendations, following her 3 week hospitalization for an extensive neurologic work up by Dr. Guidice. The medications of haldol, lithium and cogentin seemed to help control her euphoric states and inappropriate affect. Annie was to follow up with Dr. Guidice and Dr. Petrelli, and was to attend outpatient SLP and group therapies. She was also to attend an appointment with K. Axelrod, PhD for a structured home behavior modification program, as well as to participate in an individualized sheltered workshop. Annie was to be discharged home on 4/17/82.

On 4/21/82 Annie was evaluated by Kenneth Axelrod, PhD, accompanied by Angie Freeman and Elyse Madgy. It was reported that she would meet with Dr. Axelrod weekly to go over the previous week's tasks and to outline new tasks. They would be working on increasing

family cohesiveness and general trouble-shooting. It was reported that research was being done to find her an appropriate sheltered workshop.

On 4/28/82 Annie was seen by Kenneth Axelrod, PhD for a behavior modification program. She was accompanied by Angie Freeman and Elyse Madgy. It was reported by Ms. Madgy that Dr. Axelrod worked on Annie's fear of physicians and examinations, as well as her memory recall. Her consumption of beer was also addressed. Dr. Axelrod recommended a day activity program at the Phoenix Place in Detroit, scheduled for 4/30/82, to assess the program structure, her supervision and the services offered.

On 4/30/82 Elyse Madgy reported that one of her nursing staff accompanied Annie and Angie Freeman to the Phoenix Place to assess the activity program for appropriateness for Annie. The program was designed for the mentally impaired and developmentally disabled and offered recreational social activities, ADL classes, therapy groups, arts and crafts, outside activities and special events/field trips. Annie's need for small groups, her impaired memory and her need for supervision was emphasized.

On 5/5/82 it Elyse Madgy reported that one of her nursing staff accompanied Annie and Angie Freeman to an appointment with Dr. Axelrod to coordinate a behavior modification program. Counseling was provided to both Annie and Angie Freeman centered around everyday living problems with Annie. Dr. Axelrod recommended holding a family conference to explain the program to all of her family and caregivers.

On 5/7/82 Elyse Madgy reported that a member of her nursing staff accompanied Annie and Angie Freeman to the Phoenix Place to coordinate her admission and activities. She was scheduled to attend 3 days a week and transportation was to be provided. ***It was pointed out to the therapist, Linda Rogers that close supervision would be required due to Annie's short attention span, impaired memory and tendency to wander off.***

On 5/13/82 Elyse Madgy reported that one of her nursing staff went with Annie and Angie Freeman to an appointment with Dr. Axelrod. It was reported that Dr. Axelrod continued to counsel daily with the family problems. It was reported that Annie was having depression episodes with tantrums and seclusion. Annie reported hearing male and female voices when sitting alone in her home. Angie Freeman reported medications were missing, so a lock box was recommended. Her therapist at Phoenix Place reported she was adapting well to the recreational program with good participation and socialization skills noted.

On 5/26/82 and 5/28/82 Elyse Madgy reported that one of her nursing staff attended meetings with Annie and her family and Dr. Axelrod, in her home and in his office. The meetings were to emphasize family counseling, cohesiveness, coping mechanisms and the everyday problems with Annie to try to get consistent behavior from all care givers. Questions were answered for the family and all members agreed to work together with consistent caretaking of Annie.

On 6/10/82 Elyse Madgy reported that one of her nursing staff attended two separate meetings during the week for Annie, held by Dr. Axelrod. It was decided that his staff would construct 3 charts to insure proper follow through of Annie's medication administration, identifying and organizing a grocery list and completing her daily routine functions. Once completed, her caregivers would be responsible to follow through with their instructions. On 6/4/82 a family meeting was held in Annie's home with her family and caregivers to discuss the program goals and current plans.

On 6/11/82 Elyse Madgy reported that one of her nursing staff visited Annie and her mother in her home to provide instructions regarding constructed charts. Step by step instructions were

given to Annie and her mother with the goal of increasing her independence in her daily and routine household functions.

On 6/29/82 Elyse Madgy reported that one of her nursing staff attended a family conference for Annie held by Dr. Axelrod. It was reported that Annie was now accompanying her mother grocery shopping, was taking her medications with supervision and doing ADLs. Slight euphoric behavior, dependent tendencies, memory problems and inappropriate responses still appeared to exit. Problems within the Coggin household were reported to still exist with a lot of family anxiety.

On 7/12/82 Elyse Madgy reported that one of her nursing staff members made an unscheduled visit to see Annie in her home to evaluate her home modification program. It was reported that many of the assigned tasks and structure was not being completed and all charts were incomplete. The Phoenix Place had not been attended for weeks, SLP therapy was missed and Annie was not cooking her own meals. Annie continued to display euphoric behavior and severe memory impairment. It was reported that she was not taking her medications as prescribed. It was recommended that a meeting take place with Annie's physicians to discuss her future rehab needs.

On 7/15/82 Annie followed up with Dr. Guidice, reported to be 4 years post head injury. She was accompanied by Angie Freeman. It was reported that Annie's mother refused to give her her medications and she was not cooperating with the ordered treatment. Annie was reported to be attending SLP 3 times a week. Dr. Guidice reported that Annie was functioning at a Cognitive Level VI/VII on the RLAS. She was generally much improved although there had not been a change in level on the Cognitive Scale. Annie was advised to continue her medications and SLP.

On 7/22/82 Dr. Guidice reported that a conference was held with Ms. Madgy and her therapists. Ms. Madgy reported poor follow through with Annie's home program, medications, and behavior modification program. It was reported that Angie Freeman was currently ill so Annie's mother was caring for her and her children. It was recommended that an aide be brought in 5 days a week, 6 hours a day, to provide follow through with her home programs.

On 8/12/82 Elyse Madgy reported that a member of her nursing staff held a meeting with Dr. Axelrod, with Annie, her husband, her mother and Angie Freeman present to discuss having an aide in their home to provide for some of her attendant care and program follow through. An aide was recommended and scheduled to begin after 8/20/82. Annie's husband wished to delay his decision and agreed to contact the office by 8/16/82 with his decision.

On 9/1/82 Elyse Madgy reported that a member of her nursing staff met with Annie and her family in their home to follow up on her nursing rehab needs. It was reported that James Coggins had not yet contacted them with a decision on supplemental attendant care in the home. It was reported that Annie was treating with her family physician for cold symptoms. It was reported that they would continue to try to coordinate a work experience for Annie at the Phoenix Place.

On 10/4/82 Annie's RN rehab nurse from Elyse Madgy reported she met with Annie, her mother, Mrs. Bell, a neighbor, Angie Freeman and Joyce DuMortier. Annie reported that she had her accident 8 years ago and was re-oriented to the fact that it had been 4 years ago. Angie Freeman reported that she never makes a mistake with money or counting change. Ms. Bell reported improvements in her behavior and attention since her discharge. SLP services were being provided twice a week by Anne Sarkes. Annie reported she was bored with her SLP exercises. It was reported that her next appointment with Dr. Guidice was for 10/18/82 which the RN rehab nurse would attend. She requested that her mother and Angie Freeman also attend. It was recommended that the appropriateness of a sheltered workshop be addressed by Dr. Guidice.

On 10/5/82 Annie's RN rehab nurse from Elyse Madgy reported that she was contacted by Anne Sarkes who shared her goals and frustrations with Annie and her family. Anne Sarkes

reported that while she felt that Annie could make progress she questioned the wisdom of increasing independence and abilities if the family refuses to carry out the program at home. She reported that in Annie's pre-trauma life she was very content to be in a non-stimulating, non-productive life and she reported she preferred that same life style. The RN rehab nurse reported that Anne Sarkes alluded to the fact that there were some family problems but she could not share due to confidentiality. The RN rehab nurse reported that she felt that the family dynamics should be addressed by Dr. Guidice for her recommendations.

On 10/15/82 Elyse Madgy reported that a member of her nursing staff met with Annie in her home, as well as met separately with Angie Freeman, in follow up for Annie's nursing and ADL needs in the home. Annie's mother was not available, as she was reported to have a babysitting job. The nurse reported this left Annie at home alone Monday through Friday, from 9 AM until 5 PM without supervision. The nurse reported that there appeared to be an increase in Annie's self-ADL abilities, secondary to her being left alone at home. Annie complained of a sore toe, which was reported to be slightly edematous. It was reported that Annie also had a mild vaginal infection. Problems with her medication administration were discussed with Angie Freeman. The Coggins had decided they did not want additional attendant care assistance in their home but still wanted the assistance of the rehab nurse. The SLP therapist reported that Annie was missing her SLP therapies and the Phoenix Place reported she had not attended her program in several weeks.

On 11/5/82 Annie's RN rehab nurse from Elyse Madgy reported she had met with Carol Hobson regarding an home evaluation and a home program for cognitive stimulation.

On 12/10/82 the OT therapist reported that Annie had received 3 hours of OT from 11/19 through 11/30/82 for an initial evaluation. She was reported to have an extremely limited short and long term memory, she was highly distractible, she was unable to follow concrete to abstract directions, and she had perceptual motor dysfunction. Annie was unable to identify or correct her mistakes and she had an extreme fear of failure. It was reported that Annie was motivated to perform household tasks so she could feel she was contributing to the family. OT reported they would be working with her to develop her basic work skills and train her in independent living and household tasks.

On 1/10/83 OT reported that Annie had received 9.25 hours of OT from 12/1 through 12/31/82. OT reported she continued to receive home bound therapies at Angie Freeman's home due to distractions in her own home. OT continued to work on short/long term memory, reduced distractibility, following directions, and perceptual deficits.

On 2/8/83 Annie's OT reported she was continuing to actively participate in home bound OT services. Services were being provided in her home regardless of the distraction existing from her children. The main focus was training for household activities but there was some difficult since she did not have the adequate tools in the home. It was reported that her gas had been turned off and they were using electric heaters and blankets to stay warm. The OT reported that she had to keep her coat on due to the coolness of the home. Issues and problems in the home were discussed with her husband by OT.

On 3/10/83 the OT reported that Annie had received 11.25 hours of OT from 2/1 through 2/28/83. OT continued to work with Annie on learning household skills and follow through. Supplies were purchased to assist Annie with household cleaning tasks. There was no gas in the home so water had to be heated on the stove for which Annie required assistance.

On 4/5/83 OT reported that Annie had attended 5.25 hours of OT from 3/1 through 3/31/83. OT was working with Annie and her caregivers on meal planning and preparation. OT reported that Annie's potentials were limited to supervised activities in the home, 2nd to her being preoccupied

with her anger towards her husband and her resistance in initiating independent activities. It was reported that Angie required maximum structure and prodding to participate in cooking activities independently.

On 5/13/83 OT reported that Annie had received 11 hours of OT services from 4/4 through 4/28/83. They continued to work on meal preparation and Annie required maximum structure to participate. It was reported that Annie's medication had not been refilled due to family financial issues. Medication issues were discussed with AAA.

On 6/3/83 OT reported that Annie had received 12.5 hours of OT from 5/2 through 5/31/83. It was reported that Annie was actively participating in meal preparation and household chores with increased attention to tasks. Annie required moderate supervision to perform shopping tasks, per Angie Freeman.

On 6/23/83 Dr. Anthony Petrelli reported that Annie had been admitted to Harper Hospital after having been ***evaluated on 6/14/83 and found to be grossly decompensating and having increased symptomology.*** She was reported to be exhibiting a wide variety of psychotic type behaviors, including hallucinations. It was felt that she was not benefiting from her therapies due to her deteriorating condition. She was reported to be excessively dependent and experiencing child like behaviors. It was reported by her aide that on 5/12/83 she discovered Annie had not been taking her medications for about 3 weeks because her husband was not paying for them. This issue had been resolved by AAA paying for the prescriptions through her aide. Her husband was reported to be her guardian but Annie was basically staying with her mother at night and with her aide during the day. Dr. Petrelli reported he had been unable to reach her husband after several tries. Her husband had been described as not being able to cope with her situation and decided he needed a life of his own, so he was living with another woman. Annie's two older children were living with her and her two younger children were living with her husband. Dr. Petrelli reported that Annie did not have good hygiene methods and she required direction and assistance with all ADLs. She was reported to be both depressed and euphoric. The plan was to provide Annie with one-to-one therapy and involve her husband in her outpatient therapy. He felt that Annie was grossly psychotic and would require anti-psychotics for months to come.

On 7/6/83 OT reported that Annie had received OT services from 6/2 through 6/30/83, working on household cleaning activities. It was reported that she continued to require maximum structure to follow through on cooking activities due to her poor attention and distractibility. It was reported that Annie had been admitted to Harper Hospital for observation and to stabilize her medications.

On 9/28/83 SLP reported that they had conducted a SLP evaluation on Annie following her second stay at the Rehab Institute of Michigan (RIM). It was reported that Annie was residing with her husband, her 4 children and her mother. Since she was unable to care for herself she was also spending most days with her neighbor/caregiver, Angie Freeman. It was reported that Angie Freeman worked with Annie daily with her OT and SLP needs. It was reported that Annie had been diagnosed as psychotic since her MVA. Her medications included Robaxin, Naprosyn, Cogentin, Haldol, and Lithobid. It was reported that her medications were being closely monitored by her psychiatrist and neurologist at RIM.

On 10/4/83 OT reported that OT services had been re-instated at Annie's home following her discharge from RIM. It was reported that she spent 8 hours a day with Angie Freeman at her home, as had been recommended by the RIM team. OT continued to work on short and long term memory, attention span and perceptual difficulties.

On 10/31/83 SLP reported that in the month of October they continued to work with Annie on her memory deficits, anomia, word finding difficulties and reading comprehension skills. Angie Freeman had been invited to watch and participate in these activities.

On 11/2/83 OT reported that Annie had received 5 hours of OT services from 10/1 through 10/31/83, where they continued to work on her memory, attention span and perceptual skills. ***Annie continued to require maximum structure and assistance for follow through in these areas.***

On 11/30/83 SLP reported that Annie had received 3.5 hours of SLP services from 11/1 through 11/30/83. They continued to work on her cognitive deficits.

On 12/7/83 Annie's OT reported they were continuing to work on short and long term memory, attention span, and perceptual skills. Her aide, Angie Freeman had been helping the family to locate a new home, which was found. Annie was reported to be feeling ambivalent about the move to the new house. OT reported they would be continuing to focus on her independent ADLs and household tasks, as well as developing basic work skills and using her non-structured time constructively.

On 12/7/83 Dr. Guidice reported that Annie had been admitted to RIM on 8/2/83 and was subsequently discharged home on 9/8/83. Her level of cognitive function was evaluated to be V/VIII on the RLAS. ***SLP testing indicated that her performance was decreased from past testing, with reasons unknown.*** OT spoke with Angie Freeman and it was reported that Annie was independent with feeding, grooming and dressing but required verbal guidance for thoroughness with showering. Annie was not able to initiate household tasks independently and she was determined to not be safe in the kitchen. Poor memory and problem solving skills were reported. It was reported that PT and all other therapies had been instructing Angie Freeman for home activity follow through. Psychology reported that Annie was noted to have acalculia, agraphia and extremely poor spatial relation skills, with extremely poor recall. Psychology reported that her evaluation made her questionable for even a low level workshop. ***It was reported by Dr. Guidice that Annie required supervision at home and if this close supervision was not available in her home she would require placement in an adult foster care facility. She reported that Annie continued to require one-on-one 24 hour a day supervision.*** She was to receive outpatient OT and SLP and would be following up with herself and Dr. Petrelli.

On 12/30/83 Annie's SLP reported that she had attended SLP therapy for 3 hours during the month of December 1983, in her home. Annie reported missing many personal care items in her home and this was discussed with Angie Freeman. Angie expressed frustration with the family's lack of support and was resistant to the idea of helping Annie. SLP reported that Annie was receiving SLP for receptive and expressive aphasia and cognitive deficits.

On 1/6/84 Annie's OT reported that Annie had moved to a new residence with her husband, mother and 2 youngest children. Later in the month it was reported that her mother moved out to make room for her two oldest children. OT visited the new home to work with her on basic work skills through the organization of her wardrobe. She had observable improvement in her attention span noted. Her color discrimination skills were displayed accurately 2 out of 5 times with maximum structure. Therapy sessions were to continue but would now be at the home of her aide, Angie Freeman.

On 2/2/84 Annie followed up with Dr. Guidice. Annie denied any problems other than her right lower leg pain. ***Dr. Guidice reported that as usual, her insight continued to be non-existent.*** Ann Freeman reported that Annie had been evaluated by a podiatrist for right foot discomfort. Dr. Guidice noted no paranoia was presently reported. It was reported that Annie continued to be with Ann Freeman 10 hours a day, 7 days a week, and she stayed with her mother at night. Annie was

receiving SLP and OT once a week in her home by Carol Hobson's agency. Her present medications were Robaxin, Cogentin, Haldol, Naprosyn, and Lithobid. No seizures or symptoms of tardive dyskinesia were reported. Annie was reported to be oriented times 3 but required cueing for the date of the month. Dr. Guidice reported that she appeared to be functioning at a cognitive level VI to VI-VII/VIII on the RLA scale. She was reported to be much improved in that she was less agitated, not paranoid and almost back to her previous level of January 1983, maybe even slightly improved. Dr. Guidice suggested that Annie continue to journal since her visual memory appeared to be better then her auditory memory. She recommended that they increased SLP and OT to twice a week as she did appear to be improving. ***It was Dr. Guidice's opinion that complete independence was not a reasonable possibility for Annie*** and she reinforced with Ann Freeman that Annie must stay on her medications. It was recalled that Annie had performed quietly poorly when her medications were previously withdrawn and her condition deteriorated. It was reported by Dr. Guidice that Annie continued to require 1:1 therapy and a very structured environment that should be familiar with a strict daily schedule. It was advised that Annie follow up with Dr. Petrelli in regards to her previous psychiatric problems and her neuroleptic medications. It was also suggested that Annie follow up with social services in regards to her domestic situation and family concerns.

On 2/3/84 OT reported that Annie had received 4.75 hours of OT services from 1/1 through 1/31/84 in Angie Freeman's home. Therapy was to continue to focus on developing basic work skills and progressive training in household tasks.

On 2/7/84 SLP reported Annie had a positive response to treatment this month. Her improved insight resulted in periods of frustration, sadness and confusion during therapy. Her emotional state and affect varied from week to week. She had been very melancholy with her questions regarding her disability, with anger and suspicious thoughts regarding her living situation, as well as being euphoric and praising everyone with inappropriate laughter. She was frustrated over having little control over the normal activities of her life. Specific SLP concerns were her inability to initiate and complete a task, limited control in her routine daily activities, distress and frustration with personal relationships, and erratic emotional behavior.

On 2/24/84 Annie's RN rehab nurse from Elyse Madgy reported a meeting was held with Dr. Guidice and Carol Hobson to discuss Annie's home environment in relationship to her rehab progress. Dr. Guidice believed that Angie Freeman had Annie's best interests at heart and that Annie's paranoia was causing her care providers some problems. It was recommended that an appointment be set up with Dr. Petrelli, family conferences be held and that they might require a visiting nurse to visit the home 1-3 times a week to monitor the home environment. It was felt that if all else failed they would have to contact adult protective services. Dr. Guidice did not feel that Annie was a candidate for a day care program. She was reported to be function at cognitive level 5 and Annie was unable to provide chore services for her family.

On 2/29/84 Annie's SLP reported she was receiving SLP twice a week in her home and she was responding variably to structured situations. She had a high degree of distractibility which interfered with her ability to attend to a task for more then 3-4 minutes. She consistently asked "what's wrong with me" but was unable to comprehend the answers. Her impoverish vocabulary, both written and oral, limited the scope of her treatment. SLP reported that Annie demonstrated potential for improvement, however the need for concrete focus of her over-all rehab was fast becoming apparent. A program with objectives that coordinated with OT had been developed and close contact was maintained to confirm the appropriateness of her treatment programming. It was recommended that she continue SLP twice a week.

On 3/7/84 Annie's OT reported they continued to work on goals to develop perceptual motor function, improve attending skills and improve visual and auditory memory. Dr. Guidice had authorized an increase in both her in-home SLP and OT services from once a week to twice a week.

On 4/3/84 Annie's OT reported that she had demonstrated some improvement in cognitive and perceptual motor function. She had also become more appropriate and was displaying a variety of affect/emotion vs. extremes in compliance and anger. It was recommended that OT be continued twice a week.

On 4/5/84 Annie's SLP reported her response to treatment in March had been highly variable within session but the overall trend was one of improvement. Her care provider had removed herself from the treatment room which enabled Annie to be considerably more relaxed. She was experiencing dramatic mood swings between crying and then laughter. She displayed anger both at herself and the therapist. She was having brief, lucid responses lasting from 30 seconds to one minute where she would become very insightful and in touch with her feelings and situations, revealing an extraordinary use of organized language, an adult affect in personality and realistic insights. Her lucid responses could not be prompted but occurred spontaneously. SLP services were recommended to continue twice a week.

On 4/12/84 Annie's RN rehab nurse from Elyse Madgy reported a conference held between Helene Reimer, Annie, Angie Freeman and Annie's husband. Angie Freeman was upset with the fact that Annie's husband had to leave the conference early and she was left with the responsibility of Annie. It was recommended that this situation be discussed with Dr. Guidice.

On 5/4/84 Annie's SLP reported that Annie was out one week due to a cold. It was reported that she continued to show slow progress in areas of reading, writing, functional problem solving and reducing avoidance behaviors. Her expressive speech, auditory retention and recall revealed little change. It was recommended that she continue SLP twice a week in her home.

On 5/6/84 Annie's OT reported she had maintained contact with the others involved in Annie's home programming. Annie had made gains in cognitive function and perceptual skills and they would be addressing her ADL self-care needs (hair care) next month. It was recommended that OT continue in the home twice a week.

On 6/6/84 Annie's SLP therapist reported that her performance in SLP this interim continued to reflect her severely reduced ability to learn and apply new information. ***She was unable to recognize (remember) an activity from session to session nor could she utilize directions, cues or self-help prompts to assist herself. She was unable to solve a problem independently.*** Her expressive language levels were reported to be below the kindergarten level. She was unable to recognize colors or shapes. ***Her perseveration and impulsivity severely interfered during testing***. She was sometimes able to remember basic salient points of an idea but had no specific vocabulary recall. In summary it was reported by SLP that Annie was re-evaluated and found to have severe impairment in both receptive and expressive language abilities. Her response to treatment had been consistent although minimal changes had been observed. She continued to display inappropriate behaviors but was more easily brought back to task. It was recommended that she continue SLP twice a week.

On 6/6/84 the Annie's OT reported that they were working on her ADLs and the task of self-care of her hair. It was reported that she could now wash her own hair with supervision and verbal prompting. She could also comb out her hair and put it in curlers with maximum verbal prompting. It was recommended that OT be continued in the home twice a week.

On 8/25/84 Annie followed up with Dr. Mary Ann Guidice, her neurologist. It was reported she was approximately 6 years post CHI. Annie reported no problems except that she forgets. Annie

was reported to be oriented times two. She was reported to be aphasic (absence or impairment of comprehension/production of speech) with acalculia (inability to perform simple math). She was also noted to have a prominent anomia (deficit in naming people/objects). Annie was reported to be living with her mother but spending 10 hours a day with her aide, Angie Freeman. Annie had reported marked preservation, confabulation and distractibility noted. Her attention and concentration were markedly decreased and she was noted to be somewhat impulsive. ***Her insight was reported to be generally absent. Her judgment was decreased and she was reported to be quite concrete***. She was reported to be somewhat sill but was generally appropriate. Her processing ability was generally decreased. Her tandem gait revealed mild ataxia (inability to coordinate muscle activity causing inefficient voluntary movement) and a gait apraxia (disorder of voluntary movement). Dr. Guidice noted that Annie was functioning at a cognitive RLAS level VI to VI-VII/VIII. Dr. Guidice reported that Annie appeared to have improved in regards to perhaps a decrease in her apraxia and maybe being less impulsive with less inappropriate laughter since her last exam.

On 1/7/85 Annie's SLP reported that Annie was receiving SLP rehab in the home of Angie Freeman and at her own home. When not extremely upset by conflicts in her home, Annie had attended closely to treatment and persevered through all tasks. Improvements had been noted in length of auditory memory span and in the appropriate use of utilizing definition of a source of self-cueing. It was recommended that some intervention be considered to attempt to stabilize the home environment which appeared to be severely limiting Annie's potential for becoming functional and productive.

On 1/8/85 Annie's OT reported Annie had engaged in simple holiday baking/cooking, requiring maximum supervision throughout the baking process to organize and sequence. She required minimal to moderate verbal reinforcement to attend to tasks and was able to maintain her attention to a task for 20 minutes. She was taking a more active part in her medication administration. There was reported to be a variety of family conflicts that was of concern to Annie and which at times affected her level of task attention. Angie Freeman reported that Annie's husband was aware of how these conflicts were affecting Annie and he was taking active steps to prevent a re-occurrence of them by the New Year.

On 2/7/85 Annie's SLP reported that it was her opinion that the most therapeutic environment for her treatment was in Angie Freeman's home. Her response to treatment was somewhat improved however she had reported fluctuations in her behavior which continued to occur in response to her home situation. It was reported that she had been preoccupied, highly distracted and compulsive in her response to treatment. She appeared to be very angry in response to having to leave her home, having therapy, and with experiencing problems at home with 2 of her 4 children. She expressed her dislike for her new home and her inability to gain her mother's permission to work at home. The SLP reported that whether she is at home or at Angie Freeman's home, she sits for long periods with no constructive productive activity to occupy her time. Annie reports that during these periods of time she sits and talks to herself. Annie was reported to be limited in her ability to initiate purposeful activity, out side of self care, on her own without supervision. It was reported that her mother appeared to be limited in her support of Annie's need to be productive and there appeared to be little opportunity at Angie Freeman's home, as well.

On 2/7/85 Annie's OT reported they were working to improve her attending skills and develop perceptual/motor function. Her attending skills were fluctuating and she did not seem able to concentrate on her work without maximum verbal and physical prompting. At times she was, however, able to attend to tasks up to 20 minutes. It was reported that Annie continued to request

her medication on schedule consistently all month. OT reported that she continued to reinforce family support systems and Angie Freeman's follow through of her medication schedule and reinforcement of task activities.

On 3/6/85 Annie's SLP reported that Annie's response to treatment was considerably improved in January with emphasis on improving her attention span and concentration, inhibiting impulsive responses to internal stimuli, improving word recall and improving functional reading and writing. SLP reported she was using time outs to prove Annie was approved pauses from task oriented activities and irrelevant, inappropriate responses appeared to be decreased. Annie showed improved recognition of the need to concentrate.

On 3/6/85 Annie's OT reported that she continued to reinforce family support systems and Angie Freeman's follow through of Annie's homework assignments. Annie's husband continued to be informed of programming and medication concerns.

On 4/5/85 Annie's OT reported that she continued to reinforce Angie Freeman's follow through of leisure time tasks and home work assignments. OT continued to be provided for Annie twice a week in home to work on her OT goals.

On 4/5/85 Annie's SLP reported her response to treatment was highly variable although improvement continued in increasing attention span and concentration and visual tracking skills. ***Severe word retrieval problems continued to interfere with communication. If left to her own Annie continued to speak in circumlocutive jargon which is not focused and lacks substantial content words.*** SLP was recommended to be continued twice a week.

On 5/10/85 Annie's OT reported they continued to work on developing constructive use of leisure time, improving attending skills and the development of perceptual and motor function. ***It was reported that Annie continued to require moderate verbal prompting and structure in order to follow through with a task. She did not demonstrate any initiative to spontaneously engage in any activities other then watching TV.*** Her level of task attention had increased from 10 to 20 minutes. She had also shown improvement in her long term memory recall. OT was reported to be continuing twice a week in her home.

On 5/10/85 Annie's SLP reported they were working on her attention span and concentration, her work finding abilities, and improved functional reading skills. It was reported that her recall of activities of activities done in the morning, and then approached in the afternoon were as though it was being presented for the first time to her. Her response to treatment was reported to be improved overall due to increased attending and concentration, greatly improved visual skills and reported stability in the home. Her SLP was continuing to be coordinated with her OT and it was recommended that SLP be continued twice a week.

On 6/7/85 Annie's OT reported she continued to require structure and supervision to engage in various household tasks and table top activities during her leisure time. Annie has expressed a desire to become more involved in activities but continued to have to depend upon her mother for motivation. It was reported that Annie had a scheduled visit with Dr. Petrelli in June. Her medications were being routinely monitored both by Angie Freeman and her husband. OT reported she continued to reinforce follow through with the family and Angie Freeman in leisure time tasks.

On 6/7/85 Annie's SLP reported the improvement was noted in attending/concentration, word recognition and recall for specific tasks (cooking) and improved visual tracking and reading of recipes. Her behavior was reported to be stable and she was demonstrating excellent work habits. Treatment was recommended to be continued twice a week.

On 7/5/85 Annie's OT reported that her level of task attention was at 20-25 minutes. Annie's appointment with Dr. Petrelli was reported to been re-scheduled for July and her aide, Angie

Freeman reported her medications continued to be monitored and there had not been any re-occurrences of any behavior changes. OT was recommended to continue twice a week.

On 7/15/85 Annie's SLP reported that Annie continued to receive SLP twice a week and improvements were noted in her attention span and concentration on visual activities. Word finding difficulties and recent memory abilities continued to be moderately to severely impaired. It was recommended that SLP service be continued twice a week.

On 7/18/85 Annie followed up with Dr. Guidice. Her medications included Cogentin, Haldol, Lithobid, Naprosyn and Robaxin. She had no reported seizures. It was reported that she continued to receive SLP and OT services twice a week with aide supervision in her home. She was reported to be scheduled to see Dr. Petrelli in follow up on 8/15/85. Her aide reported that she was now able to take her medications independently if they were set up in envelopes with the date and time. Annie complained of headaches in the left temporal area that lasted 24 hours in duration. She had increased her cooking tasks to one-on-one supervision. Annie was reported to be only oriented times one by Dr. Guidice. Her aphasia, anomia and acalculia continued to be noted. ***Her memory, attention and concentration were reported to be prominently decreased. Annie continued to manifest impulsivity, confabulation, preservation and distractibility. Her insight and judgment remained decreased.*** Dr. Guidice felt that she was functioning at the cognitive RLAS level of 6-8 and her neurologic status was generally stable with variable performance. There were some functional improvements reported in regards to her ADLs. Labs and an EEG were ordered. Dr. Guidice recommended that she continue OT and SLP twice a week in her home and she was to follow up with her home program with assistance from her aide.

On 9/6/85 OT reported that Annie was seen twice from 8/3 through 8/30/85, with two cancellations. OT continued to work on spatial position/relationships and cognitive function. It was reported Annie was awaiting hospitalization by Dr. Petrelli due to possible suicide concerns.

On 9/11/85 SLP reported Annie had received 1.5 hours of SLP from 8/5 through 8/30/85, as she was hospitalized during part of this period.

On 10/14/85 OT reported that Annie was re-evaluated from 9/1 through 10/14/85 following her recent hospitalization. OT reported goals that included working on use of leisure time, independence in her ADLs, development of perceptual / motor functions, improve visual / auditory memory and development of cognitive abilities.

On 10/24/85 SLP reported Annie had received 5.25 hours of SLP from 10/16 through 10/17/85 for a re-evaluation. She was reported to be residing with her husband, her 4 children and her mother. Continued SLP services were recommended to increase auditory/visual comprehension, memory skills and word retrieval abilities.

On 11/8/85 SLP reported that Annie had received 4 hours of SLP services from 10/5 through 11/1/85. She continued to show both slight increases and decreases in her SLP goals.

On 11/8/85 OT reported Annie had received 6 hours of OT services over the past month to improve her use of leisure time and develop independence in her ADLs. It was reported that Annie was currently residing with her mother 24 hours a day while Angie Freeman's home was undergoing repairs.

On 12/6/85 OT reported that Annie had received 12.3 hours of OT services from 11/4 through 11/30/85. OT reported they were working on improving her leisure time and developing her independence in ADLs. It was reported that Annie was being very cooperative, pleasant and motivated.

On 12/9/85 SLP reported that Annie received 9.25 hours of SLP from 11/2 through 11/29/85 to increase her auditory/visual comprehension and memory skills. A slight increase in auditory comprehension tasks was reported with no other improvements.

On 1/28/88 Dr. Anthony Petrelli, her psychiatrist, reported that he had not seen Annie since 10/13/87 and at that time her progress had remained unchanged. He reported he did suggest that she be re-admitted to the Psychiatric Day Treatment Program at Harper Hospital to maintain her ADLs but he had not heard back from her or her caregiver. He reported her diagnosis remained ***Organic Affective Personality and Delusional and Paranoid Syndromes, 2nd to her CHI and she still was in need of a guardian.***

On 8/16/90 Annie followed up with Dr. Guidice. She was a cognitive level VII with no reported seizures. Annie was taking Tylenol #4 for her headaches. She reported she was on a waiting list for therapy and her day treatment program had not been approved by her insurance carrier. It was reported that Annie had undergone a Cholecystectomy in August 1989 at New Grace Hospital. Her EEG from 1988 was reported to be normal. Annie continued to follow up with her family physician, Dr. Gibson. Annie's attendant reported that her headaches seemed to be stimulated by stress. Her memory was noted to be poor. It was reported she had intermittent problems with her balance but she denied falls. She reported interrupted sleep patterns and that she walked around the house when she could not sleep. It was reported that Annie had aphasia and anomia. Her attention and concentration were markedly decreased and she had increased distractibility. ***She had no insight and had decreased judgment.*** Dr. Guidice's impressions were Cognitive Level VII, RLAS and headaches. ***She ordered an EEG and continued attendant care supervision 24 hours a day.*** Midrin was ordered for her headaches and chloral-hydrate for sleep.

On 10/7/90 Dr. Guidice reported that Annie's mental condition had not changed significantly and she continued to require 24 hour a day supervision by a responsible adult.

On 9/23/91 Dr. Barry Tilds, a dental pain specialist reported that Annie had been referred to him by Dr. Guidice on 7/22/78. He reported that a decision had been made at the time not to treat her pain since her memory was almost non-existent and she was not able to remember her pain episodes. When asked if she had pain she would deny it. Dr. Tilds reported that her reactions were quite different now. He reported she had a history of severe facial and head trauma with resultant large scars. It was reported that Annie was using ASA for pain and chloro-hydrate for sleep. It was reported that Annie had initially complained of jaw pain but did not seem to have any problems with her jaw function. She reported headaches 2-3 times a week, which had been daily in the past. She reported an headache over the past year that lasted one week. Dr. Tilds reported that he felt that Annie had post-traumatic migraine headaches, lower half migraine (facial pain) and atypical ondontalgia associated with the migraine activity. He prescribed Anaprox to be taken at the first sign of a headache. Her care giver, Ms. Gibson, was asked to keep track of her complaints. Dr. Tilds reported that Annie followed up again with him on 9/19/91 and reported that the Anaprox was ineffective in aborting the pain. Ms. Gibson reported that the headaches were not 2-3 a week but that she had "gobs" of headaches. Dr. Tilds felt that this is why the medication was not effective as her headaches were almost daily. Annie also reported her medication for sleep was not working and had never really worked. Dr. Tilds prescribed Cardene, a calcium ion blocker for her head and facial pain. Dr. Tilds reported that there was no question in his mind that her complaints of head and facial pain were related to her MVA.

In 1994 Annie's youngest daughter, Tamika reports that she found her mother living in a group home, where she had gone after her mother had died. Tamika applied for guardianship to

bring her mother home to live with her and her family. She reports that she initially had little past medical information available to her so she started Annie off fresh with seeing new physicians.

On 4/14/03 Annie was seen by Dr. R. Soutfront for a physical exam. He reported she had a history of CHI and osteoarthritis. She also had a history of a hysterectomy, head trauma surgery, and cholecystectomy. He reported she was on no medications except vitamins. His diagnosis was S/P CHI, R/O Alzheimer's. He reported that she would need home care for one year.

On 4/15/03 RN case management services were initiated by Kathleen Metcalfe RN, CCM at Brown Rehab. It was reported that Annie had been involved in an MVA when her daughter was 5 years old. Her daughter reported she remembered being told that her mother's car hit a house and she was thrown from the car into the basement. It was reported that she remained in a coma for 6 months. Annie's mother was told Annie would not recover so Annie was transported to another state for further evaluation where they determined that there was some rehab potential, so aggressive rehab was provided. It was reported she spent two years in rehab and then went home to be cared for by her husband. Annie and her husband were eventually divorced so her mother then provided for her care. When her mother died Annie was cared for by a girlfriend. Her daughter Tamika reported she started looking for her mother in her late teens, and found her when she was 20 in an adult foster care home. Her daughter reported that when she turned 21 she applied for and was granted guardianship. Tamika reported that she had brought her mother home to live with her 8 years ago and she had no record of her past medical care so she started her fresh with new physicians. ***It was reported that Annie currently resided with her daughter who was providing her with 24 hour care.*** It was reported she was not receiving any treatment for the injures sustained in her MVA in 1978. It was reported she was treating with Dr. Ramon Soutfront, an assigned Medicaid physician, who had discontinued her hypertension medication. It was reported that Annie had cataracts and she was expected to require surgery soon. It was reported that Annie's main problems were her poor memory, which would cause her to become frustrated when she was unable to make her thoughts known. Her daughter reported that she was not allowed to cook in the kitchen, even with the microwave due to past incidents secondary to her poor memory. The RN case manager reported that she had been requested by the PIP carrier to schedule an IME with Dr. Nancy DeSantis and that they required an upfront fee of $500.00 before scheduling.

On 5/16/03 Annie went for an IME with Nancy DeSantis, MD, a PMR specialist. Annie reported she lived in a one story home with her daughter with her bedroom on the main floor, but this was later corrected by her daughter who reported they had a two story home and her bedroom was on the 2nd floor. Annie was unable to provide any history of her own injuries. She reported that the scars on her face were from a basement fall when in fact they were from her MVA. Dr. DeSantis reported that Annie was occasionally at a loss for words and would look to her daughter when she could not answer a question. Some confabulation was noted. Annie had mild right facial weakness and her speech was reported to be slow. She had an antalgic gait on the right with atrophy of her right calf. It was reported that Annie has had occasional bowel and bladder incontinence in the past. Her mood was reported to be stable and she was on no medications other than vitamins. She denied problems with seizures, sleep or moodiness. Functionally, it was reported that Annie required assistance with picking out her clothes to wear but she can put them on independently. She was reported to be able to wash and bathe herself independently with distant supervision. Annie did no laundry or cooking due to safety issues. She was reported to occasionally wash dishes and dust her home with supervision. It was reported that Annie and her daughter would identify things they wanted to learn about and would go do them together. It was reported that Annie did not like to be in large groups with people she did not know. It was reported that she

did not go outside of her home with out someone being with her. ***Annie was aware of these safety precautions but her insight into her deficits was reported to be minimal. Dr. DeSantis reported that her current deficits were mild right hemiparesis, decreased memory, decreased problem solving/word finding, slow processing speed and reduced insight and judgment, 2nd to her TBI.*** Her recommendations were for Annie to have a routine head CT scan every 1-2 years to monitor for changes. She was to continue her avocational and recreational activities that she performed with her daughter. ***Dr. DeSantis also reported that Annie was in need of 24 hour supervision due to her limited insight and decreased problem solving abilities.*** Annie was able to say she would call 911 in the case of an emergency or fire but she was unable to describe what she would do next, such as exit the building. Dr. DeSantis recommended that Annie follow up with a rehab specialist at least once a year and should follow up with her internist on a regular basis.

On 6/3/03 the RN case manager reported that Annie had undergone her IME and it was verbally reported that ***she had a TBI with significant cognitive deficits and continued to require 24 hour a day supervision. It was also recommended that she continue to attend avocational (recreational) activities with supervision.***

On 6/11/03 Annie followed up with Dr. Ramon Soutfront, her family physician, for an evaluation of her previous CHI. He reported she was verbal and has some difficulty with recall. It was reported that her daughter was also present. Annie was referred for an ophthalmology evaluation.

On 5/28/04 Annie followed up with Dr. R. Soutfront. It was reported that she had a TIA and had been seen at St. Joseph Mercy Hospital for a B/P of 160/110. Her B/P today was 128/82. She was placed Lotrel and advised to follow up in one month.

On 2/7/04 RN case management services were initiated by Joan Barnette, RN, CCM, from KC Rehab Consultants. It was reported that Annie had been unemployed on the date of her MVA. Her physicians were Dr. DeSantis (PMR), Dr. S. Gonte (ophthalmology), and Dr. R Harris (family practice). ***It was reported that Tamika Coggins was her guardian and conservator and that she demonstrated significant cognitive deficits which required 24 hour supervision to assure her safety***. Tamika reported that Annie would follow her directions well but due to her memory deficit she required frequent cues and redirection. It was reported by the RN case manager that Annie demonstrated an antalgic gait on the right as well as right sided partial paralysis related to her MVA injuries of 7/22/78. It was reported that Tamika demonstrated and verbalized a good understanding of Annie's physical and cognitive needs including safety and ADLs. Annie was reported to be seeing an ophthalmologist for an eye condition that causes tearing. She had plugs placed in her tear ducts but recently had the right plug removed. She was also reported to be following with her primary care physician for a current diagnosis of hypertension. Her daughter reported that Annie had a metal plate in her head. She also reported a past history of a hysterectomy and the removal of gallstones. Anne reported she was not currently involved in a therapy program. ***The RN case manager reported that Annie's daughter provided for all of her supervision and attendant care requirements. She also provides her with all of her transportation as Annie does not drive. It was reported that Annie continued to reside with her daughter and her family in a new home equipped with an intercom system and an alarm system that alarms if someone tries to enter or exit the home.***

On 2/9/04 Annie underwent a Functional Evaluation in her home with Caroline Hinkle, OTR. It was reported that Annie resides with her daughter, her son in law and their two young children in a newly constructed home that is about 6 months old. ***It was reported that prior to her MVA Annie was independent in all aspects of her daily living.*** It was reported by her daughter

function of handling, of taking and paying what was set-up by the medical management department with the Bearden family.

Q. All right. So just to make sure I understand what you're saying, there was a point in time that you were handling this that Brain's care was stabilized to the point of having his parents provide care for him during the day, during the evening, twenty-four hours a day?

A. He was getting home care and some PT and OT, physical therapy, occupational therapy.

Q. Was it your understanding that the parents were providing both what we call attendant care, looking after him, giving him medications that he needed; is that correct?

A. Yes, the mother and the father were.

Q. They were also providing what's called physical therapy or occupational therapy to him; is that correct?

A. That's what he claimed he was doing.

Q. And doctors that were treating physicians for Brian showed the parents how to do those or provide those services?

A. I don't know how they were educated.

Q. If you wanted to know you could have sent a letter off to the treating physician to ask what have the parents been shown as it relates to occupational therapy,

physical therapy?

A. I could have.

Q. Or any type of therapy, correct?

A. I could have.

Q. Now you understand that when physical therapy and occupational therapy is being provided to an insured, AAA is obligated to pay for that service?

A. Yes.

Q. And if attendant care is being provided, AAA is obligated to pay for that service?

A. Yes.

Q. If medical care is being provided in the home, AAA is obligated to pay for that service, correct?

A. Yes.

Q. Is it your understanding that AAA is obligated to pay for all of those that we've discussed at different rates depending on what is being provided?

A. Yes, that would be, it could change as time goes on.

Q. In other words, someone who is being provided just attendant care, watching over them, making sure they don't get injured, may get paid at a lower rate than someone who is providing attendant care plus providing medical, prescribing drugs, making sure they're being taken, et cetera?

A. Yes.

Q. And then if they're providing attendant care, dispensing medicines on schedule and checking devices, appliances, things that may be, that would be an additional amount that AAA may have to pay, correct?

MS. KULIK: I just want to put an objection on the record again to the form of the question. I think there's issue as to what aides can, should and are compensated for doing and what you're saying may fall under what an aide does, being you are not being specific

MR. MCKENNA: Fair enough. I'm trying to avoid being specific, so I don't have your objections.

BY MR. MCKENNA:

Q. Do you understand what I'm asking, sir?

A. I understand.

Q. As the level of care goes up, generally the level of compensation goes up?

A. Yes.

Q. And I'm not trying to ask you specifics because I don't want to get into it and be wrong one way or the other. I might be off on one way and you might be off. But in general the more care that's being provided, the higher the compensation for providing it?

MS. KULIK: I'm going to object

again to the form of the question. I think maybe you can just say the level of care as opposed to more care. You're making it quantitative rather than qualitative.

MR. MCKENNA: I'll make it real clear.

BY MR. MCKENNA:

Q. There's twenty-four hour care that we've already agreed to and talked about with Brian Bearden. The level of care that's being provided to him will determine what the compensation rate is, correct?

A. Within reason. I think that's fair as to, you know, whether it's care being given as far as attendant care, whether it's skilled care, yes. Skilled care is going to be demanding more money than just normal attendant care will be.

Q. And I'm trying to avoid labels to it. I guess what I'm trying to do is ask you on an incremental basis, not the quantity of care but the level of the care that's being provided.

The greater the level of care, you're not just watching the person anymore, you're now dispensing medicines, that is going to in general require a larger or greater compensation rate than just watching you, correct?

that Annie required some assistance and/or supervision with ADLs such as bathing, grooming, and dressing since her MVA. She was reported to be independent with feeding and ambulation. Housekeeping, grocery shopping, cooking, and laundry were all managed by her daughter, with some occasional supervised help by Annie. Driving and home safety management were provided by her daughter and family. It was reported that Annie had a rolling walker that she only used for long distance walking. ***Her daughter reported Annie was receiving 24 hour a day attendant care and supervision from her and had been her caregiver since 1994. Her daughter reported that she was presently not working so was available to provide 24 hour care/supervision.*** It was reported that Annie would occasionally attend an adult day care program for 1-2 hours at a time if her daughter had an appointment to attend. The OTR reported that no home modifications were required except the installation of grab bars in the bathtub to ensure her safety when getting in and out of the tub.

On 2/27/04 Annie followed up with Nancy DeSantis, MD, her PMR specialist. She reported she had been well with the exception of a burn she sustained from an iron that she had been told not to use by her guardian daughter. Her daughter reported that she left the room for a moment to change her clothes and her mother proceeded to try to use the iron anyways. Her daughter reported that she is aware that she must monitor her mother closely. Annie reported that she has been told by her daughter not to answer the door or go outside unless someone is with her. Current medications were reported to be Lotensin, ASA, an MVI and Calcium. Her B/P was reported to be 130/86, she was 5' tall and weighed 129 lbs. Dr. DeSantis noted facial fractures that were well healed. She also noted that Annie was impulsive and would interrupt conversations. Dr. DeSantis's impressions were that Annie had suffered a moderate to sever TBI with resultant right hemiparesis, facial lacerations and the evacuation of a subdural hemorrhage. She recommended that she undergo a neuropsychological evaluation for a baseline. ***She reported that Annie was in need of 24 hour a day attendant care, which would be life long.***

On 6/7/04 Annie underwent a neuropsychological evaluation with Diane Klisz-Karle, PhD, at the request of Dr. DeSantis, to establish a base line of functioning for future monitoring. Her current medications were reported to be Naproxin, Afeditab CR, Benazepril HCL, MVI and ASA. Annie's daughter reported that her condition had remained stable for a long period of time. She reported that Annie would get frustrated and angry and she had memory difficulties. Her daughter reported that she talks her through her depression. Annie was reported to enjoy spending her days working on children's activity books with her young grandchildren. It was reported that Annie was functioning normally before her brain injury in 1978. Dr. Karle reported that Annie had difficulty comprehending complex instructions and her responses to questions were often deficient due to obvious aphasic difficulties. Due to these difficulties she was given a low level test of neuropsychological abilities. ***Her insight was reported to vary but was generally poor.*** Her mood was reported to be anxious and depressed at times. It was reported that her limited insight into her deficits was probably something that helped insulated her from emotional distress. Dr. Karle concluded that Annie, at 26 years post severe brain injury, presented with evidence of severe persistent and wide spread areas of neuropsychological deficits including basic language abilities, attentional capacity, orientation, visual-spatial perception, construction, anterograde memory and high level thinking skills including abstraction abilities, judgment and reasoning abilities. ***She reported that her deficits indicated extensive bilateral and diffuse impairment of the functioning of both cerebral hemispheres.*** Dr. Karle reported that the most positive finding was evidence of good coping skills given the severity of her deficits. ***It was reported that her prognosis for any further significant recovery of functioning was poor but it was important to take steps to prevent***

any unnecessary deterioration from the aging processing interacting with her brain injury effects. Her diagnostic impressions were: Dementia associated with traumatic encephalopathy with no current evidence of any significant behavioral disturbances. ***It was recommended that she continue with her present living arrangements as she appeared to be well taken care of and was functioning at an optimal level in her current environment. Her daughter was encouraged to continue to provide her with physically and mentally challenging tasks in order to help her maintain her level of functioning as long as possible.***

Presently, Annie continues to reside with he daughter, her son in law and her grandchildren as she has since 1994. Her daughter, Tamika reports that she has continued to remain her legal guardian since that time. Tamika reports that at the time her mother first came to live with her in 1994 she was working for a physician and she received some information from him in regards to brain injuries in general. She reports she also did self research and visited brain injury rehab centers to learn more about handling her mother's brain injury at home. Tamika reports that she eventually left her job to be at home full time with Annie. She also went for counseling in the early years so she could better understand and cope with her mother's injuries and behaviors. Annie continues to follow up with physicians, as needed. She sees Dr. Roger Harris, her internal medicine specialist for routine medical care as needed and her family dentist annually. Annie denies any pain other then an occasional headache. Annie also follows up with Dr. DeSantis annually for her brain injury and rehab needs. Tamika reports that she last saw Dr. DeSantis in May 2005 and her 24 hour a day attendant care supervision was renewed again. Her medications include Lotensin for her blood pressure, a multiple vitamin and baby ASA. Tamika reports that Annie has been physically stable over the years since coming to live with her. She reports that initially she had problems with Annie and her severe mood swings and emotional outbursts, and that is why she educated herself on brain injuries so she could better understand how to handle her mother's cognitive and emotional deficits. Through the years she has gotten Annie on a daily routine and schedule. She reports that each night they discuss the schedule of events for the following day and go through a nightly routine that includes laying out her clothes for the next day. Tamika reports that Annie is able to perform her own personal care with reminders, cueing and some back up assistance, as needed. Tamika reports that Annie is able to remember something she is told or asked to do for about 10-15 minutes and after that she has to be told again. Annie appears to have some limited insight into her deficits and is often frustrated with her inability to do the things she knew she could do prior to her MVA. Tamika reports that since coming to live with them Annie continues to have her severe mood swings but she is there to talk with her and make her feel better about her self, thus there have been no further suicide attempts. Tamika reports that she believes that Annie may have attempted to kill herself in the past while in the group home setting as she has scars on both of her wrists from apparent attempts. Tamika reports that she and the family are able to control her mood swings with a lot of emotional support and encouragement. Tamika reports that Annie's attitude about things has really improved and settled down over the years since coming to live with them. Annie wants to feel needed around the house so Tamika will work side by side with her on household projects and/or cooking a meal. She reports that they have a list of things that Annie wants to learn to do and that is what they work on each day. When Annie tells them she wants to learn to do something new then it is added to her list to be worked on. Tamika reports that she also signs up for arts and craft classes with Annie and they go do them together. Annie no longer receives any professional outpatient therapies and Dr. DeSantis feels that they are not necessary at this point. Tamika reports that Annie enjoys working in children work books and coloring with her grandchildren, which makes her feel as though she is helping out with managing the children. Tamika reports that Annie usually goes to

bed at about 10 PM and will sleep until about 6 AM. Because she may get up at night, they have installed alarms in the home that detect if someone is walking around so Annie will be supervised if she gets up and needs assistance. Tamika reports that she has attendant care back up as needed from her husband, her sister and her father.

ATTENDANT CARE:

Since her accident, it is documented in medical records that Annie has suffered with changes in her physical, psychomotor, and regulatory abilities; decreased cognitive and intellectual abilities; changes in her behaviors and emotional control; changes in her social affective elements; and interpersonal aberrations typically exhibited by persons with acquired brain injuries.

Brain injured persons such as Annie exhibit day-to-day problems that may include, but are not limited to: poor organizational skills and subsequent disruption in the home; disorganization in money management; apathetic attitudes towards cleanliness; procrastination regarding the initiation of tasks; self-destructive and / or apathetic behaviors; duplicitous behaviors; errors in judgment that place the person at chronic risk for re-injury; non-compliance with prescribed medication regimens or therapeutic / exercise programs; despondence and overwhelming depression resulting in apathy / amotivation; and incontinence, hygiene, dressing and feeding problems. Persons demonstrating a portion of or the entire plethora of deficits associated with the above described day-to-day activities usually ***require 24 hour supervision and / or assistance*** with their ADLs. This includes assistance and supervision of self-care, home management, personal safety oversight, community integration, and facilitation of appropriate recreational activities. Annie's medical records and an interview with her guardian daughter indicate that she has suffered with significant cognitive and emotional deficits through the years since her MVA in 1978 and that the prognosis for any significant improvement is poor. ***Her physicians have supported her needed for 24 hour a day supervision in the past and presently through this evaluation date.***

A supported living program (SLP) in the home setting is necessary to help meet the everyday challenge of individuals who exhibit cognitive / behavioral deficits and impairments, to promote their continued quality of life and to maximize their independence and dignity. SLPs provide structure, supervision and support, with an emphasis on safety and consistency. Annie's daughter reports that she has set up such an environment in her home that includes daily routines and schedules, and this seems to make Annie feel less anxious and more confident in her limited abilities.

The level of care that has been reasonable, necessary and provided for her since her accident by her family, is at the level of a ***Life Skills Trainer (LST)***, with a current value of reasonable service of ***$25.00 an hour.***

Typically, LSTs have the basic skills of a home health care aide, with additional skills and training that may include, but is not limited to, brain injury overview and understanding, behavior management, medications, seizure management, sexuality, psychosocial issues, psychiatric emergency management, family issues, and stress management. They are able to provide for the brain injured person, in the home setting, structure, supervision and physical / psychological support. LSTs are responsible for the hands-on daily care and supervision of the brain injured person. These duties include, but are not limited to, assistance with self-care, therapeutic / productive activities, home management skills, medications, transportation, and the like. The primary objective of the LST's intervention is to facilitate and enhance the brain injured

individual's cognitive skills by supplying consistent orientation information, redirection, assistance with problem solving, encouragement of targeted behaviors, and cueing for safety awareness. LSTs help to provide a prosthetic and supported living environment that protects and promotes the persons optimum health and targeted wellness goals, thus minimizing the risk of psychologic complications and secondary injury or illness, which helps to ultimately lower costs by avoiding unnecessary hospitalizations and costly medical treatments. Tamika, who is Annie's guardian and primary care provider, reports that she has educated herself through the years so as to better understand the brain injury her mother has suffered and how to best handle her continued cognitive and emotional deficits. ***After her neuropsychology evaluation in June 2004 Dr. Karle reported that Annie's current living environment allowed her to function optimally and her daughter was encouraged to continue to provide her with physically and mentally challenging tasks in order to help her maintain her level of functioning for as long as possible.***

Please feel free to contact me if you have any questions regarding this evaluation or if I can be of further case management services to you or this catastrophically injured client. I recommended that she continued to be evaluated annually for her TBI rehab and attendant care needs by her PMR specialist.

Sincerely,

Renee K. LaPorte PhD, RN, CCM, CBIS, CMI-3
Sr. Disability Analyst / Managed Care Specialist

Sherry L. Viola, M.D.
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INDEPENDENT MEDICAL EVALUATION:

RE: COGGINS, ANNIE
DATE: 05/16/03
CLAIM #: RA025824

HISTORY OF PRESENT ILLNESS: Annie Coggins arrived on time for her Independent Medical Evaluation. She was accompanied by her daughter, Tamika, and her granddaughter. She was neatly dressed and she was very cooperative with the examination. Her daughter was present but did not add additional information unless requested by myself. I had an opportunity to review Detroit Osteopathic Hospital records including a surgical report, a discharge summary, a rehabilitation discharge summary, speech and language discharge summary, occupational therapy discharge summary, a psychiatric assessment report, a neuropsychiatric day treatment report.

Annie is a 62-year-old woman who was injured July 22, 1978 at the age of 37 years when she was involved in an automobile accident. She sustained multiple traumatic injuries to the head and face. She required surgical repair of her facial injuries, tracheostomy. The patient was reportedly comatose for at least one week. The family is not aware of any other fractures in the axial skeleton or the extremities. Annie underwent a craniotomy with evacuation of subdural clot performed by Dr. Okulski on September 15, 1978. She was ultimately transferred to Southfield Rehabilitation Center on September 25, 1978 and was ultimately discharged March 23, 1979. She was seen and followed by Dr. Mary Ann Guldice and was in fact admitted to the Rehabilitation Institute of Michigan on August 2, 1983, discharged September 8, 1983. At the time of her discharge Ms. Coggins required verbal guidance for topographical orientation. She was at risk for being confused if she got out of the building and she frequently needed redirection within the building. She was noted to be apraxic and had poor memory and poor problem solving skills. She could follow one-step verbal directions and was not safe in the kitchen. She could feed herself, groom herself, dress herself, but required supervision and verbal guidance for thoroughness. She is ambulatory without any assistive device.

Ms. Coggins reports that she lives in a one-story home with her bedroom and bathroom on the first floor. The history was clarified by Ms. Coggins' daughter, Tamika, who states that she in fact lives in a two-story home with a second floor bedroom. She was able to correctly give me her date of birth, the month, the date, and the year. She knew the members of her family, but could not give me any further history regarding the nature of her own injuries. She informed me that she had fallen in a basement and that was how she injured her face. She referred to the scars on her face. I reoriented Ms. Coggins to inform her that she had in fact been involved in a motor vehicle accident and had suffered her injuries at that time. She occasionally was at a loss for words. She looked to her daughter frequently when she could not answer a question. There was some confabulation and after this was noted I would then check with her daughter for the correct answer. She was very cooperative. She could name simple objects. She could repeat simple words. She had difficulty with number repetition backwards or forwards.

PHYSICAL EXAMINATION: There are numerous scars over her face, particularly over the oral region and there is some asymmetry in the facial movements. Her tongue is midline.

PHYSICAL EXAMINATION (CONT'D): HEENT, as above. Extraocular muscles are intact. Mild right facial weakness. Speech is slow but not dysarthric.

CHEST: Her chest is clear.

ABDOMEN: Abdomen is soft.

EXTREMITIES: There is atrophy of the right calf. There is an antalgic gait on the right with slightly wide-based gait. Her upper extremity strength is slightly reduced on the right in comparison with the left. Left being normal at 5/5, right being 4+ to 5-/5. In the right lower extremity proximal strength is 4/5 in hip flexion, hip extension, knee extension, knee flexion, ankle dorsiflexion 4-, and ankle plantar flexion 4. Deep tendon reflexes are brisker in the right lower extremity. Decreased sensation in the right arm and right leg in comparison to the left.

There is only occasional urinary incontinence and there has been only occasional fecal incontinence which is more then six months ago. Her mood has been stable. She is on no medications other then Vitamins. There is a questionable history of hypertension, but she is being followed by her internist and is not on any medications. She has had a recent glucose tolerance test due to a family history of diabetes. There have been no seizures. There are no problems with sleep. There are no problems with moodiness. Functionally Ms. Coggins does need supervision to pick out appropriate clothes to wear. She is able to put them on independently. She is able to wash herself independently and she is able to bathe herself independently with distant supervision. She does no laundry and no cooking due to safety issues. She occasionally washes the dishes under supervision and occasionally dusts around the home to try and be useful.

She does not go outside without another member of the family with her. She is aware of the safety precautions and is able to repeat them back to me. Her insight into her deficits is minimal. She is very pleasant.

IMPRESSIONS: Annie Coggins is a very pleasant 62-year-old woman who was involved in a motor vehicle accident in 1978 suffering a moderate to severe traumatic brain injury with right hemiplegia. Her current deficits include mild right hemiparesis, decreased memory, decreased problem solving, and word finding deficits as well as slow processing and reduced insight and judgement. She does ambulate with a slight gait asymmetry secondary to her hemiparesis.

PLAN AND RECOMMENDATIONS:

1. Routine head CT once every one to two years to monitor any changes due to her brain injury.
2. Continue her avocational and recreational activities that she performs with her daughter. They identify things they want to learn and go together. Annie seems to tolerate this well. She does not tolerate large groups with people she does not know. I concur with this and have encouraged her to continue to do this.

PLAN AND RECOMMENDATIONS (CONT'D):

3. Annie is in need of 24-hour supervision. She has limited insight and significantly decreased problem solving. She was aware and was able to tell me that she could call 9-1-1 in the case of an emergency, but she could not give me another problem-solving step which would be to leave a burning building if it was on fire.
4. Ms. Coggins should follow up with a rehabilitation physician once every year or so.
5. She should continue to follow with her internist on a regular basis.
6. Please do not hesitate to contact me if you have further questions or comments.

Thank you for the opportunity to provide an Independent Medical Evaluation on your patient, Annie Coggins.

Nancy M. DeSantis, D.O.

NMD:TTS:mcg

Dictated, not read

cc: Kathleen Metcalfe, R.N., C.C.M.
AAA Michigan

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NEUROPSYCHOLOGICAL EVALUATION
STRICTLY CONFIDENTIAL

PATIENT'S NAME:	Annie L. M. Coggins
DATE OF BIRTH:	4/29/41
DATE OF EVALUATION:	6/7/04
REFERRING PHYSICIAN:	Nancy M. DeSantis, D.O.
CONSULTING PSYCHOLOGIST:	Diane K. Klisz Karle, Ph.D.

REASON FOR EVALUATION: To assess current neuropsychological status in order to establish a base line of functioning for future monitoring.

TESTS ADMINISTERED: Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III), Cognistat, interview with patient's daughter/guardian and review of selected medical records.

HISTORY: Annie Coggins is a 63-year-old, right-handed African-American woman who sustained a severe brain injury on 7/22/78 in a motor vehicle accident. She sustained multiple traumatic injuries to the head and face. She had extensive medical and rehabilitation treatment. For a review of her medical history and treatment to date, please refer to her medical records. Ms. Coggins was at the Rehabilitation Institute in Detroit, Michigan for inpatient rehabilitation treatment during the time that this examiner was the director of Psychology Services. Ms. Coggins' current medications include Naproxin, Afeditab CR, Benazepril HCL, multi-vitamin plus iron and ASA 81 mgs.

According to her daughter, her mother's condition has remained stable for a long period of time. She still has memory difficulties. She gets frustrated and angry. She eats well. She helps with housecleaning. At some time after her injury, she was hiding food in her room. She no longer does this. Her daughter helps her talk through her depression. She spends her days working on children's activity books with her young grandchildren. Her daughter believes that she has done better since she has been around her family.

Background information on Ms. Coggins indicated that she graduated from high school and had some college classes but no advanced degree. She worked part-time as a sales person at a retail clothing store. She functioned normally before her brain injury in the 1978 motor vehicle accident.

BEHAVIORAL OBSERVATIONS: Ms. Coggins was brought to the appointment by her daughter/guardian, Tamika Coggins Johnson. Ms. Coggins was of normal appearance. Her gait posture and mannerisms were normal. She was able to use all of her extremities. She wore reading glasses to see at close range. Her speech was fluent and of normal volume and rate. She had difficulty comprehending complex instructions

Was it just a general sense, or were
ere specific instances where you can think of
.ere these issues became clear?
A: Both.
Q: Why don't you tell me first in general.
A: In general, as time went on with my employment,
ividual incidents seemed—it had a cumulative
fect and that contributed to a general sense that
r primary role was to help control claim costs.
Q: When did you start feeling that? If you can put
—
A: Sure, yeah. I can remember in the office on
kman Boulevard, which was the first office where
was hired, John Eshnauer (ph) was the claim
nager, and at that time his manager was, I
lieve, Rod McKenzie, and we had staff meetings
th Mr. McKenzie, Mr. Eshnauer, the claim
ecialist and the nurses, and we were given some
rections which were contrary to what I thought
s fair to the patient.
Q: In terms of giving the patient the maximum benefit
benefits?
Well, let me ask you—that's kind of
ery broad question.
And you understand that your

entitled to the benefit?
A: My sense was both, and we were dealing with people
with catastrophic injuries who very obviously could
not shovel snow, take out their garbage, cook their
meals.
Q: So you were told, basically, not to volunteer the
information: if they figured it our on their own or
went to a lawyer, then you would answer their
questions honestly, but you were not to volunteer
any information?
A: That's correct.
Q: Let me just jump ahead and extrapolate on that.
Did that same issue ever come up
with attendant care, a similar issue, where they
told you, look, if they ask you for a dollar and a
half an hour, you are not to tell them that they're
entitled to market rates?
And let me just jump ahead. I want
to inform you that we've taken the deposition of
Carol Benn, and I will represent to you that
Carol Benn has testified that it was clear to her
in 1994 when this case was audited that the
Beardens were being drastically underpaid. She
didn't use the word "drastically," but I'll use the
term "drastically" underpaid; that they actually

sition as a case manager is also the position of
: Michigan Supreme Court in the Shaver's decision
ich says that the No-Fault Act is to be—is first
ll a remedial statute and that it is to be
rally construed in favor of the injured party.
You understand that that's the
ation with the No-Fault Act?
: Uh-hmm.
: Yes. And what you're saying—so can you tell me
t the specifics of what happened in that meeting
: you felt were—what was the issue that came up
: you felt compromised the duty of a case
nager to put the patient first as opposed to
its?
: Sure. There's a specific benefit, replacement
ices, which as I understand the law allows up
20 a day, and we were told by Mr. McKenzie that
were not—claim specialists and nurses working
the claim specialist, were not to
matically offer that benefit, that we were to
until the person made a claim for it.
Mr. McKenna entered the room.)
BY MR. GARVEY:
Do you mean just blanket pay the $20 a day, or do
mean just even inform the person that they were

looked at the file, determined that they were being
underpaid, raised the reserve by over a million
dollars based on that underpayment, and then
continued through today's date to pay them
six bucks an hour, which payment they've been paid
since 1985.
MS. KULIK: I'm going to object to
form and foundation.
MR. GARVEY: Is there something I
misquoted?
MS. KULIK: I don't think you're
properly characterizing it.
MR. GARVEY: What about it is
improper, other than the word "drastic"?
MS. KULIK: My objection's on the
record. You can have her answer. It's your
characterization.
MR. GARVEY: In other words, what I
said was true.
MS. KULIK: Well—
BY MR. GARVEY:
Q: Along those lines did—you've answered the
question in terms of replacement services.
Did a similar consideration arise
along the lines of what I'm suggesting in terms of

Are you aware of the effort that was
dertaken in—you left in '92?
A: Correct.
Q: Okay. Carol Benn testified that in—and she thinks
s was about '94, it appears that this particular
: was audited in 1994. There was an
preciation by someone above her, the corporation,
it they were underpaying family members for
endant care, and they became concerned that
:re might be future exposure, so they went and
dited the files at the branch level.
Are you aware of any of that?
A: Yes. I was performing contract work for AAA at the
ne. I remember the, as I worked in different
inches, the auditors coming through and—
Q: What was the purpose of that? What was the purpose
the audit?
A: I'd have to say I remember being in the offices and
:ing with auditors because I knew many of them.
:er I left I can't testify as to exactly what
:y were doing.
Q: Can you think of any, any reasonable explanation
finding a file where they admittedly could look
r and figure that the person is being
derpaid, raising the reserve because they

ngnized the fact that the person is being
lerpaid, and then not informing the family that
y're being underpaid and continue to underpay
m for seven more years?
: Can I see any reason for that happening?
: Yes.
: Any logical and fair reason?
: Yes.
: No.
: Would you agree that—can you think of a word other
a "outrageous" for that?
: Unfair.
S. KULIK: I'm just going to put a
inuing objection on the record to the
evancy of this witness' opinions about
rever you want to pontificate on at this
overy deposition.
R. GARVEY: It's nice that I'm
ificating with Carol Benn.

BY MR. GARVEY:

Did you ever—can you recall ever raising any
al concerns with anyone at AAA just saying,
ou know, I don't agree with this, whether it
tendant care or the incident that you talked
with replacement services or housing or

(1) anything like that, where you can think that
(2) somebody gave you a response?
(3) A: Yes.
(4) Q: All right. Tell me about that. I mean-
(5) A: (Interposing) Sure.
(6) Q: Might be more than one, but I'd just like to get
(7) some idea of what—
(8) A: When Mr. McKenzie was my manager's manager and he
(9) had those meetings with us, when he told us that we
(10) were not to offer benefits but see if people
(11) requested them, to control cost. I remember really
(12) clearly raising my hand in that meeting and
(13) Mr.—and I told Mr. McKenzie that what he was
(14) asking us to do was not right.
(15) Q: Well, and what did he say? Did he respond?
(16) A: He did.
(17) Q: What did he say?
(18) A: Mr. McKenzie told me and the staff in that meeting
(19) that, pretty close to a quote, he said we're not
(20) talking about right and wrong, we're talking about
(21) money, and you will do that.
(22) Q: Did he say or what, or was it implied?
(23) A: I think, I think he, yeah, I think there was an
(24) implication that—it was a direct direction. I
(25) don't know what—I can't speculate what implication

(1) he had, but it was a direct direction, this is what
(2) you will do.
(3) Q: Continue not to inform people?
(4) A: Yeah. That was Mr. McKenzie.
(5) Q: And what was his position in the company at the
(6) time?
(7) A: He was the manager over John Eshnauer, who was the
(8) manager of the Medical Management Unit, when we
(9) were at Oakman Boulevard in Dearborn. We were—we
(10) were sometimes told to do things that conflicted
(11) with nursing practice.
(12) Q: Was this after they had changed your job title?
(13) A: Prior to.
(14) Q: So this was while you were still under the official
(15) title of the case manager, which you've pointed out
(16) means that you're a patient advocate?
(17) A: Correct.
(18) Q: Are you familiar with current rates for different
(19) like physical therapy, occupational therapy,
(20) attendant care and that sort of thing?
(21) A: I have some knowledge of it.
(22) Q: What are the rates now for like physical therapy,
(23) occupational therapy, recreational therapy?
(24) Would those be fairly similar rates
(25) or would they be different?

Yes.

Certainly if it came up, you would look at your claim certainly to see if you overpaid a claim.

And then you would pursue that, you would collect that, that would be part of your job?

Yes.

Okay. All right. That's kind of a nice segue into what we were talking about today, before I switched gears on you, and that was that as time went on there was an evolution in terms of paying family members in certain circumstances agency rates that the agency charges and we were talking about the fact that you or others within your unit would go to the branches and look at files with an idea towards discovering whether perhaps you may have underpaid a claimant?

Right.

All right. And I think we talked about the fact that - well, what brought your attention to those files? Well, as I said sometimes it would be a phone call from a adjuster. Sometimes it would be a family asking for ore money. And we were just seeing this evolution as explained to you before that some of these claims oked to be -- the families weren't being compensated ough for the level of injury.

ay. Would you agree that when a lawyer got involved

in the case that that would get your attention, when a lawyer -- when a lawsuit was filed or you received a letter from a lawyer saying we think you've underpaid this person, that that would focus attention on that file?

A. That would not be a reason for us to go out and look at a file, if that's what you're asking.

Q. Why not?

A. Because we were doing it just generally anyway trying to look at all the files. It wasn't based on there's a call from an attorney.

Q. Was there ever a study performed by you at any point in time where the focus was, hey, this issue of underpayment of attendant care is becoming a big issue, we would like to know what our exposure might be, let's go look at all these old files and see what we may be looking at in the future, did that happen?

A. You said was there a study done?

Q. Yes.

A. We were really starting to look at all the files. There's no formalized study.

Q. What was the beginning of that, what was the genesis of that?

A. Probably some, you know, maybe lawsuits, again a review of files.

trying to find out if there was ever a
any-wide, whether it came from just your immediate
rvisor, it came above that, where there was some
gnition that this could be a very large number,
this underpayment, whether intentionally or
rtently, this underpayment issue might become a
ssue and we better find out what our exposure is,
u ever get that sense?
that's why we started looking at the files.
ght. And when was that?
ying again, I'm guessing at '97 or something like

ght. And when this sense came over you and
in the company and you went out and looked at
es, was the purpose to locate each individual
i then contact the family to say, hey, you may
n underpaid, or was the focus of it, let's find
our exposure might be if these files go into
on?

MS. KULIK: Or was the exposure
else?

MR. GARVEY: Yes.

MS. KULIK: I'm sorry, or was the nething else? I mean there's more than those ectives.

MR. GARVEY: If there were more then that you can answer the question.

THE WITNESS: Right. These were branch files, so we were going out and talking to the adjusters about the files, looking at them, finding out what was being paid. And mostly we were concerned about the exposure certainly. If this was a very old claim, was the amount too low. We asked them to get current medical information, what's the current rate.

Those adjusters did not work for us, so we were there to give them guidance. They had their own managers. They did not work for medical management. So we were going out to help them with direction on their claims basically and give them some recommendations.

BY MR. GARVEY:

Q. All right. But again it's more of a global question as opposed to an individual file question.

Was one of the purposes for doing this, this exercise of going back and looking at from what you said all of the old cases, was one of them separate from the idea of perhaps notifying the families and saying we've been underpaying you, and was it instead or in addition to that, hey, we got to find out what our exposure is on, you know, we got hundreds

of old files going back to the '70s, what's our exposure on these files as time goes on?

MS. KULIK: You might want to define exposure as past or future exposure?

MR. GARVEY: Yes, both.

THE WITNESS: Yes, it was to look at our exposure, certainly.

MR. GARVEY:

Okay. Now that we know that there were perhaps two purposes, one of them certainly was to look at your future exposure, especially on the old cases, was there any focus on cases that were pre-catastrophic claims files like the Reardon case where AAA's actual dollars are going to be spent?

Yes, yes.

Okay. All right. Now, the next question is, are you aware of whether or not after all these files were looked at and these are pre-catastrophic claims files as well as post-catastrophic claims files, was there any effort to notify these people that there may have been underpayment?

I don't know that.

If that happened, that happened after you left?

Because me, what happened is to say these are branch files, so we would give the recommendation to the

adjuster or the manager for the follow-up. But we weren't aware -- although, we would probably know if they were going to increase the attendant care because that would increase our exposure for our filing with our reinsured.

Q. Would those records be kept anywhere, can I go to a record and find out for example in the year 1997 how many files, how many files experienced a drastic increase in reserve?

A. Gosh, I don't know. I mean that might -- what would be the reason for the increase in the reserve?

Q. Underpayment of attendant care.

A. Right. Would our financial area have that? I mean I don't really know.

Q. Would there be any records kept in terms of how many people, family members who are taking care of catastrophic brain injured people or catastrophic physically injured people, were informed that they may have been historically underpaid?

A. No.

Q. All right. And you're not aware of any program that was developed to attempt to notify these people?

A. No.

Q. All right. Are you familiar with the Manley decision that involved AAA?

know it involved AAA, and I believe it was about ttendant care in the home and I can't tell you too ch more about it.

d the Supreme Court even use the word sitter care as definition of what care they were looking at in that se?

on't know.

y. Is it your sense that it dealt with unskilled ervisory care?

do you know the date that the Court of Appeals ley case came down?

ou know the date that the trial court -- do you that it involved -- you said you understood that nvolved supervisory care.

Do you know that the rate was $8.00 ur that the trial court awarded in that case?

't know what the rate was, no.

I know the year that the trial court first ed --

00 an hour for sitter care?

ersons when you were handling the files, what were

the Reardens being paid?

A. I'd have to look. I don't know. I don't know if this is the payment file or not.

MS. KULIK: Do you need the payment file?

BY MR. GARVEY:

Q. What did they do with all that information that they gathered when they went to the branches and they -- we got to the point that we agree that one of the main reasons they were doing this; i.e. going to the branches and looking at these old cases, was to figure our future exposure.

What did they do with that information, do you know?

A. It was passed on to the managers normally for follow-up.

Q. To you?

A. To the managers of the branch offices, these are branch adjusters. We'd say on this specific file, recommendations to get current medical information to see if the needs are still the same.

Q. But I mean, I'm trying to go up the corporate --

A. Right.

Q. I mean this idea of what your future exposure was, that would seem to me that that could be a very large

number?

A. Yes.

Q. And other than just passing that back down to the branch managers, are you saying it didn't go beyond you, like that information didn't go higher up into the corporate structure like, hey, this could be a potentially huge number and what are we going to do about it?

Right. What would happen if we knew it was a potentially large number?

It would be, wouldn't it?

It would be a large number. We'd have to do a filing with our reinsurers because they have to know that also.

So is it your sense that there was a massive filing with your reinsurers raising the reserves on these files?

Massive, I don't know if it was massive, but certainly as they came up we would notify them. We would do a new filing with them. And our financial area would be alerted. It would go across -- usually that report would go across my desk. Reserves over a certain dollar value would have to have approval by at that time my boss?

So was that?

A. Liz Eggemeier.

Q. Let me ask you something else. Just because a file, these attendant care files, these old attendant care files involving family members taking care of catastrophically brain injured people, just because those files had their reserves raised significantly, doesn't necessarily mean that the family members were informed of that? Question mark. You wouldn't tell a family member that you doubled the reserve because the rates looked a little low?

MS. KOLIK: I'm going to object. Your question is based on the assumption that the reserves were raised because they've been underpaid, as opposed to the reserves were raised because the current rate was being raised and the projected payment over time was going to be more.

MR. GARVEY: I don't see a differences, maybe I'm missing something.

BY MR. GARVEY:

Q. I mean I thought we had agreed that because of this you called it an evolutionary process and an enlightened process on the part of the adjusters and yourself, that you realized that some of these family attendant care people had been underpaid?

A. Yes.

l right. And that was the reason that you in the s '90s that there was a push to go back and look at old files?

t.

so my question is now, I assume that in a number of s, a large number of cases, the reserves had to be ed?

And we increased the reserves and we began to ase the payments to the families.

So are you saying that in every case that you at where you felt that there was a possible exposure that was larger than you had pared because of this evolutionary enlightenment, e rates were actually raised?

on't know that. As they were raised, that's did our filing with our reinsurer and increased rve.

I saying is, what was raised, your estimates of at have to be paid in the past and in the what was actually paid? Do you see what I'm

Let's say you pick up a file like

k back at it and you say, these people are

getting paid $5.00 an hour for ten years and then they were paid $8.00, just hypothetically, they were paid $8.00 an hour for ten years, agency rates are $21.00 an hour and they never got any cost of living raises on that. We might owe them a large sum of money in the past, and if we have to raise them up to $21.00 hypothetically, that's a big future exposure that we haven't counted on.

So how would the question one, how would that hypothetical situation assuming it happened, affect the reserve; i.e. the past?

Let's say you owe them $2,000,000.00, $3,000,000.00 underpayment for past benefits, does that raise the reserve on a file?

A. We were looking at the future, future reserves.

Q. So you weren't looking at the past?

A. No.

Q. In the insurance business, let's say you look at a file like Beardon and it turns out you may owe them $3,000,000.00 in the past, doesn't that raise the reserves or is that only a future issue?

A. We were looking at the future issues.

Q. You weren't looking at the past?

A. Right.

Q.

exposure of the company, and in the Saarinen case it would be an actual exposure of the company, wouldn't it, because there's no catastrophic claims fund?

Well, there is an employer reserve reinsurer, it's just not the MCCA, but you're right, it's a different formula.

All right. So if you're looking only to the future, then my question would be the same only a little different.

Now hypothetically you've looked at an old file where you've made the determination that there was an underpayment and that you had to significantly increase the reserves to cover the potential future exposure?

Yes.

In every case was the family notified or was it a hypothetical potential future cost? Do you understand my question?

I understand your question, and I don't know about every case. I don't know that. I mean there are literally hundreds of cases, I don't know.

But I'm trying to get again is the global feel for this.

Because you raised the reserve on a file for potential future exposure, does that mean that

the potential future exposure is going to reflect the actual payout?

A. It should.

MS. KULIK: I think what she testified to is after they would consult with an adjuster on a file and make recommendations, if the rate was raised, the daily rate at that point, that would then be conveyed to the -- at that time the people who dealt with the reserves were in medical management as a separate unit now and they would then raise the rates. They weren't raised as a result of --

THE WITNESS: Just a review.

MS. KULIK: -- the meeting with the adjuster and reviewing the file.

BY MR. GARVEY:

Q. So what you're saying is that if the reserves were raised, they were only raised in connection with an actual financial obligation and actual payout, as opposed to an anticipated hypothetical payout, in other words -- okay, go ahead.

A. No, I'm just going to say in most cases that would be it. But it could be a hypothetical, also assuming that the adjuster is going to be making an adjustment.

Q. Okay. So you answered my question. You admit that the following scenario could develop, medical management

ght look at a file and say, these people are getting
id eight, they probably should be paid fifteen, based
your view of it, we're going to raise the reserves
nificantly, we're going to double the reserves,
's say, but that the person, the family members
't eventually get that money, that's possible, in
er words the raising of a reserve can represent
ure possible exposure and not actual exposure?
ah, yes.
right. Do we know in the Saarinen case whether
re was ever an increase in reserve?
n't know that.
would have been after you left?
would have been before.
, no, because you were there.
t, it could have been before.
e ask you this, was this one of the files that
ne went back and looked at?
ably, it should have been one that was looked at.
what notes would I look for, would they be
agers' notes, would they be medical management
?
uld be adjuster notes. I don't know.
as I understand the process, it came from above.
e ask you, maybe I didn't establish this.

Where did the directive come from for you folks to go to the branches and look at these older files, was that your idea?

A. It wasn't. No, it wasn't my idea.

Q. Somebody recognized the possible future exposure to these old claims; is that right?

A. Yes, that's correct.

Q. And that somebody was above you?

A. Right. I don't know that. Liz said this is something you should do. There were questions from the branches, because these are very heavy duty cases that the adjusters are handling, whether it just evolved from questions from the branches, litigation, our management, something legal.

Q. I understand how all those little skirmishes could start. But what I'm after is the decision to do this, the decision to go back and revisit these old files at the branch level by someone from your unit didn't come from you, it came from someone above you?

A. I think we offered to do that. I think our unit offered to do that, to go out and talk to the adjusters.

Q. All right. You said that at some point there was a realization that there might be a large exposure out there, and that it was at that time that you started

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benchmark for setting rates?
A No.
Q Did they ever tell you that it was a statistically significant objective study to determine all rates for attendant care?
A No.
Q Did they say you have to use the rates in this survey?
A No.
Q So it was never intended to be used by you?
MS. KULIK: Objection, you're asking her to speculate. Sorry.
BY MR. MCKENNA:
Q It was never intended to be used by you in your capacity in setting reserves to be the benchmark, the tool for setting rates; is that correct?
A Correct.
Q And if I'm understanding you correctly, what you have for determining rates is somebody from MMU tells you what the rates are?
A That was how they used to do it before the Plante Moran survey.
Q Now, after the Plante Moran survey, how do you find out what the current rates are?
A I haven't followed up.

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The Plate Moran survey was done when?
It was presented --
2001?
-- 2001.
All right. When it was done you don't know?
I don't know.
Just when you got it, it was 2001?
Correct.
Since 2001, how do you know what rates MMU says to pay?
They did an updated Plante Moran survey, but I don't really know what MMU paid.
I didn't ask you any of that. I asked you a very simple question.
Since 2001, how do you know what rates to pay?
I don't.
You send these e-mails we've talked about before indicating that when you looked at a file and you see that the same rate has been paid for a year, that you would advise them of what MMU is currently authorizing?
I haven't done it since they did the home care survey in 2001.
So since 2001 you have not advised any adjusters

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of underpayment?
A Correct.
Q Did somebody from AAA, before we talked about Mr. Berkebile and Dick Herman telling you the don't ask don't tell policy, correct?
A Correct.
Q Since 2001 has anyone else at AAA told you to stop sending these e-mails?
A I think I discussed it with Patty and it was felt that everyone in the company had been trained, so they didn't feel it was necessary anymore.
Q When did you speak to Patricia Robins and she told you to stop sending e-mails?
A I believe we talked about it in October when the training was done. I think it was completed in November for everybody.
Q So since 2001, you haven't sent memos?
A No, I haven't.
Q Even though you've seen -- strike that.
If you see a file that you're reviewing that pays the same amount year after year you still don't send memos?
A I don't think I've seen anything like that.
If I see a file that I think something isn't right on, I refer it to a manager.

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Q So you do that by e-mail as well?
A Yes.
Q And those e-mails, of course, are destroyed just like the other ones we talked about?
A I don't know.
Q Well, your destroy yours?
A I delete mind, yes.
Q You have been reviewing this file, the Bearden file since when?
A '98.
Q '98. And your file that you have, would you be able to tell what rate was being paid to the Bearden family on an hourly basis?
A No.
Q Why not?
A I was never able to determine that.
Q You were never able to determine the hourly rate the Beardens were being compensated?
A That's right.
Q Well, if you weren't able to determine the hourly rate that they were being compensated, you wouldn't be able to tell what the reserves should be, would you?
A I reserved this claim based on the past history.
Q Could you answer my question?

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THE WITNESS: You're asking me have I sent any e-mails since --
BY MR. MCKENNA:
Q You sent an e-mail to an adjuster about an underpayment since you were told by Patricia Robins not to send them anymore?
A No.
Q Even if they were being underpaid, you haven't sent another e-mail to an adjuster, correct?
A I don't recall seeing anything like that, but correct.
Q The earlier policy that Mr. Berkebile and/or Mr. Herman told you about was the don't ask don't tell?
A Correct.
Q Correct. And now it's don't tell don't tell?
MS. KULIK: I'm going to object to the form of the question.
BY MR. MCKENNA:
Q Correct?
A As far as I'm concerned?
Q Yes.
A That's correct. I don't get involved in it now.
Q Who at AAA, to your knowledge, is involved in insuring if it's not part of your job duty

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anymore, that the adjusters are paying the appropriate rates for services provided?
I believe it would be the branch manager.
Now, when you came to AAA in your reserve specialist capacity in '97, I think you said that there was a study, an intervention I think is what you called it, that was either underway or just getting started, correct?
Correct.
And then there was another one in 2001?
There was another one sometime between I think it was before 2001.
Was it close to 2000, was it in the 2000s, was it in the 1990s?
It might have been '99 or 2000, I don't know.
But there were two of them?
Correct.
And I took the depositions of Mr. Berkebile and Mr. Herman about why it was AAA was doing this, what you call an intervention, and they indicated to me that the reason was because there were branch offices that were handling as maintenance files catastrophic cases and that they were noticing problems in the rates that were being paid.

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Did they ever discuss that rationale with you as to why these interventions were being done?
A No.
Q You were part of some of these interventions at different branch offices, correct?
A Correct.
Q In fact, you've even -- and I don't know the correct term, you've presented cases to the CAT fund committee on behalf of adjusters?
A I don't think I ever presented anything to the CAT loss committee. I think I took a case to a home care committee for an adjuster.
Q Do you recall testifying that you had handled cases to the CAT loss committee?
A No, I don't.
Q On page 62 of your deposition you were asked a question, "Ma'am, why would you as a reserve claim specialist presenting a file to the home care committee?"
So you've done it with a home care, but you haven't presented a file to the CAT loss?
A Correct.
Q But you have participated in CAT loss committee

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meetings?
A I have attended, yes.
Q Why would a person as you described your job duties that just set reserves go to a CAT loss committee?
A My boss asked us each reserve specialist to attend three meetings a year.
Q Why?
MS. KULIK: Objection, you're asking for speculation.
MR. MCKENNA: No, I'm not. I'm asking her what she knows.
THE WITNESS: I'm assuming she just wants us to keep current on issues.
BY MR. MCKENNA:
Q What issues?
A Issues that would be discussed at the CAT loss meeting.
Q But those issues being discussed at CAT loss committee would have nothing to do it with what you're doing as your job, would they?
A Not really. The only instance --
Q It doesn't make much sense, does it?
A No.
MS. KULIK: Objection, you're

Page 14

A Yes.
Q And if you didn't say I don't understand, you would have answered because you understood?
A I think I answered because I thought I understood.
Q Well, at the time you gave an answer --
A I felt I understood.
Q -- you thought you understood the question; is that correct?
A Correct.
Q Do you know where the question is that you're talking about in the deposition?
A It was towards the beginning.
Wait, let me go back. Would you ask that question again?
Q She can read it back to you.
(QUESTION READ BACK)
THE WITNESS: Okay, I'm assuming you're referring to the remark about the back home care?
MR. MCKENNA: You said something about not going back, so I'm going to try to look up not going back.
BY MR. MCKENNA:
Q Do you know who Mrs. Betty --
A Betty Glynn (sp).

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Q -- as it relates to this transcript that you handed me?
A She was an adjuster.
Q Okay. Did you have conversations with Betty regarding this file, the Marr's file?
A I think -- I don't think I had a conversation with her, I sent her an e-mail.
Q I'm sorry, did you communicate with her regarding this file?
A Yes.
Q Is the e-mail attached as Exhibit 1?
A I don't know. I didn't look through that.
Q You didn't look at the attachments?
A No
Q Because it says here in Exhibit 1, it's a wizard mail and it says, "Hi, Betty," that's from you?
A Okay.
Q Is that correct?
A Yes.
Q It says, "We're currently paying 130 a day and appears this is twenty-four hour care. Based on our latest survey we're now authorizing $8.00 an hour for regular home care. It would probably be a good idea to write to Doctor Pearlman and have him confirm the number of hours."

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Did you ever advise Betty to pay more money than what she was paying?
A I told her what the current rate was.
Q So you obviously knew at the time what the rate Betty was paying, correct?
A I don't know.
Q Well, at the time that you would have been handling this file, setting reserves, you need to know what is being paid, don't you?
A Well, ideally. I don't always know what's being paid.
Q As part of your job you're supposed to know what is being paid in order to figure out reserves, aren't you?
A Not necessarily.
Q What if they were paying $400.00 an hour wouldn't you need to know that?
A Well, sometimes I just base it on the past history.
Q My question was, if they were paying $400.00 an hour for home care, you would need to know that, wouldn't you?
A It would be good to know that.
Q In order to set a reserve?
A That would be helpful.

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Q Okay. Now, from what I can see in this transcript it appears that you have sent some e-mails or some communications anyway in writing to this adjuster, Betty, and some others.
And the question in the transcript was, did you tell Betty that she owed Mrs. Marr back pay since she had not been raised to the present rate. And the answer was, "Answered: No, I did not."
Is that what you were talking about?
A Yes.
Q And that was a truthful answer and you understood that question?
A Yes.
Q All right. Do you know who Mr. Berkebile and Mr. Herman are?
A Yes, I do.
Q And they were management at MMU at the time?
A Yes.
Q And according to your answer here, "Question: Why not?
Answer: Because it was the position that we didn't pursue back payments unless it was requested."

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Is that part of what you reviewed this morning?
A Yes.
Q And that was a question you understood?
A Yes.
Q And the answer was truthful?
A I was answering truthfully at the time. I'm not so sure it was correct.
Q Was the answer truthful?
A It was what I felt to be the truth.
Q And then to explain what you felt to be the truth, you were asked the question, quote, "And who's position was that?

Answer. I was told that by management and MMU."
A Correct.
Q And then to be even more certain of what you knew to be the truth, you identified Mr. Herman and Mr. Berkebile as the people at MMU that told you that?
A Correct.

MS. KULIK: What page are you on, Counsel?

MR. MCKENNA: That's 44.
BY MR. MCKENNA:

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Q And those were all questions you understood?
A Yes.
Q Those were all questions you answered honestly and truthfully?
A Yes.
Q By the way, have you given a deposition since this deposition?
A Yes.
Q And has anyone else asked you about this transcript?
A No.
Q Now, when did Mr. Berkebile and Mr. Herman supervise you at MMU, what time period?
A I worked for Mr. Berkebile when I came to the unit in September of '97, and I believe Betty Robins took over as my manager in December of '97.
Q Okay. What about Mr. Herman?
A I never worked directly for Mr. Herman.
Q Okay. Was he a manager or a supervisor at MMU?
A He was a manager at MMU.
Q And I take it if he told you to do something, you would do what he told you to do?
A Yes.
Q And if Mr. Berkebile told you to do something, you would do what they told you to do?

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A Yes.
Q I take it in your position you can have from what we've talked about here on Marr so far without even getting to Bearden, you have contact with adjusters and you can tell them what the position of MMU is?
A I don't do that now, but at that time I did, if it was something I was familiar with.
Q Well, for example, I've seen some e-mails, wizard e-mails or writings from you on the Marr file, correct?
A Yes.
Q They're attached as Exhibits?
A Yes.
Q And that's you communicating with adjusters, telling them what MMU says to pay?
A Yes.
Q Are you familiar with a study that was done, a survey or a -- what do they call it?

MS. KULIK: By Plante Moran?
BY MR. MCKENNA:
Q An audit that was performed by MMU, where they sent people to every branch to review catastrophic claims?
A It wasn't an audit. They were called a branch

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intervention meeting.

Is that what you're referring to?
Q Yes.

Do you recall MMU sending MMU people out and meeting with the branches, every branch in the State of Michigan to review or go over catastrophic claims?
A Yes.
Q And who's idea was that?
A I don't know.
Q Do you know when that first occurred?
A No.
Q Do you remember whether it was in the '90s or 2000?
A It was -- I got there in September of '97, and they were doing it at that time.
Q Do you recall if they did it again after September of 2000, or I'm sorry, you said September of '97?
A Yes.
Q Do you remember if they did it again after September of '97?
A Yes.
Q Do you remember if they've done it more than --

MS. KULIK: I'm going to

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made incremental changes.
Q But you don't now whether it was because someone specifically asked for that?
A I don't know.
Q The policy I'm asking about is the one don't ask, don't tell that Mr. Berkebile and Mr. Herman told you about, correct?
A Correct.
Q So what I'm saying to you that policy if they don't specifically ask, you don't specifically tell, to your knowledge that was the policy for AAA for people like yourself in reserves as well as adjusters, correct?
A If that's what I was told. I don't know what they told anybody else.
Q And to your knowledge has that policy or that procedure ever changed?
A I don't know.
Q To your knowledge it hasn't changed?
A To my knowledge it hasn't.
Q And you've never received anything in writing, seen a memorandum, seen anything indicating that there's been a change in that policy with AAA?
A Correct.
Q Now, this don't ask, don't tell policy, affects

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all of the benefits that an insured would be entitled to, doesn't it?
A That's the only instance I was ever told not to tell anybody anything.
Q From a first party standpoint, back payments of benefits would affect don't ask, don't tell, would affect every type of benefit, whether you saw that it was the hypothetical we have is underpayment of attendant care, correct?
A Correct.
Q You're aware that there are other first party benefits that AAA would owe to an insured?
A Correct.
Q Medical mileage, replacement services, wage loss, a sundry of things, correct?
A Correct.
Q That policy would apply to all of those benefits if they didn't ask, don't tell, about back payment, correct?
A I don't know. I never asked about anything else.
Q So the only thing you ever asked about was the attendant care?
A Correct.
Q What about room and board, do you set reserves based on future room and board payments?

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A If somebody's paying room and board I do.
Q Well, what if they're ordered to pay room and board, do you set reserves based on that?
A What do you mean ordered to pay?
Q You know what litigation is?
A Yes.
Q I've got different records here from you where you indicate that you're aware there's litigation pending, correct, and you make adjustments to reserves based on orders in the litigation, correct?
A Correct.
Q Now, room and board if it's ordered to be paid, in a case where it wasn't being paid, does that mean you change the reserves?
A Yes.
Q In this particular case are you aware -- strike that.

Are you still handling this file?
A I'm still doing the reserving on it, yes.
Q Have you been given a copy of the court's order regarding payment of room and board benefits on this file?
A No.

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Q Why not?

MS. KULIK: Objection, calls for speculation.

THE WITNESS: That's not something I normally get.

BY MR. MCKENNA:
Q Well, in a litigation file you need to know what the court has ordered to be paid, don't you?
A The attorneys would let me know what they need in reserve.
Q But you should have if the court has ordered a benefit to be paid, a back benefit, in fact, to be paid in order to set reserves properly, you should have that information?
A Yes, I wouldn't necessarily need to see it myself.
Q You would need to know it was ordered?
A I would need to know.
Q Did anybody ever tell you that room and board benefits were ordered on this file?
A No.
Q So you wouldn't be able to set reserves correctly without that information?
A Counsel has given me a figure that they wanted reserved, so.
Q I didn't ask you that.

and you didn't pay them, that's your fault, correct?
A Yes.
Q It's also their fault if they don't catch you not paying benefits by supervising and reviewing files, correct?
A Correct.
Q But when AAA intentionally does not tell you about a benefit that is available, who's fault is that?
MR. VANTONGEREN: Same objection, it assumes facts not in evidence.
THE WITNESS: I would say AAA.

BY MR. MCKENNA:
Q Now, AAA you said would send you materials from the Court of Appeals, Supreme Court, changes in the law on a frequent basis, whenever that occurred they'd send that stuff to you as part of your continuing education, correct?
A Yes.
Q And you would have known whether you had been given information on the room and board, because that's something that would directly impact your job, correct?
A Yes.
Q And you were never given anything from AAA up through 2002 on room and board?
A Not that I recall, no.
Q And after 2002, did AAA give you anything as far as continuing education materials on room and board benefits?
A Not that I recall, no.
Q So you had this conversation in 2002 with somebody from MMU. You didn't follow-up on that and get educated on what room and board benefits were; is that correct?
A Correct.
Q And since leaving Franklin, you've gone back to adjusting files?
A Yes.
Q Have you ever paid room and board on a claim?
A No.
Q Even to today?
A Correct.
Q Are you aware that in order to collect room and board there are certain tests or thresholds that have to be met?
A No.
Q So if a catastrophic injured plaintiff was entitled to make a room and board benefit claim and you were handling that claim, you did not inform them of their entitlement to that benefit?
A No.
Q Now, given what you're telling me that you didn't know and you work for AAA and you've been trained by AAA on the policy and the No-Fault Act, would you have expected your insureds to have known of the existence of that benefit without you telling them?
A No.
Q Would you agree that your insureds rely on your representations as their claims adjuster as to what benefits and claims they're entitled to make?
MR. VANTONGEREN: Objection form of the question, it calls for speculation.

BY MR. MCKENNA:
Q Go ahead.
A Okay, I'm sorry, would you repeat the question?
Q Would you agree that your insureds rely on your representations to them of what claims and benefits they're entitled to make?
A Yes.
Q Would you agree that you know that when you tell them what claims and benefits they're entitled to make, that when you tell them that they should reasonably rely upon your representations?
MR. VANTONGEREN: Same objection.
THE WITNESS: Yes.
BY MR. MCKENNA:
Q Do you ever tell an insured when you inform them of entitlement to a benefit or not being entitled to a benefit that they shouldn't trust you?
A No.
Q You wouldn't, for example, say I'm not going to pay this benefit, but don't trust a thing I say, go get a lawyer. You would never say that to them, would you?

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A No.
Q You would expect them based on what you're telling them to rely on your representation, correct?
A Correct.
Q So when AAA tells an insured through its adjuster, these are all of the benefits that you were entitled to, that insured or that insured's family should reasonably expect to rely on that information as being accurate and truthful?
A Yes.
MR. VANTONGEREN: Same objection.
BY MR. MCKENNA:
Q And you have been trained by AAA as a claim representative that AAA understands that when you tell the insureds things, they will rely on your representation, you've been taught that?
MR. VANTONGEREN: Objection as to the vagueness on representation. There hasn't been any showing that she's represented herself as any kind of an expert.
MR. MCKENNA: Ma'am, let me rephrase the question.
THE WITNESS: All right.
BY MR. MCKENNA:

0054

Q You have conversations with insureds on new files from day one, transferred files, correct?
A Correct.
Q Those conversations you have with them, you expect that insured to listen to what you're saying and trust you?
A Yes.
Q Do you intentionally lie to insureds?
A No.
Q Do you expect an insured to believe that what you're saying is not truthful?
A No.
Q Do you ever tell an insured that I'm telling you this, but it's a load of crap and you should get a lawyer?
MR. VANTONGEREN: Object to the form of the question.

THE WITNESS: No.
BY MR. MCKENNA:
Q Do you ever tell an insured, I'm going to tell you something, this is the company's policy, I don't agree with it, you should get a lawyer?
A No.
Q Did you ever tell them, I'm not allowed to tell you what all of your benefits and claims are, you

0055

should get a lawyer?
A No.
Q Do you ever tell them you should get a lawyer?
A No.
Q Do you ever tell an insured, I know more about the No-Fault Act than you do and your claims, I can't tell you everything, you should get a lawyer?
A No.
Q Now, you were taught by AAA to interpret the AAA policy, correct?
A Yes.
Q Now, are you familiar in the policy where it says if you are injured arising out of the use, operation or maintenance of a motor vehicle we will pay, are you familiar with that part of the policy?
A Yes.
Q And then it lists things that we will pay, medical benefits, replacement services and wage loss, correct?
A Yes.
Q But it doesn't specify in the policy what all of the medical benefits are, does it?
A No.
Q That is where when the insured gets in an

0056

accident, okay, and they have a AAA policy, until they get in an accident, you as the claims adjuster don't have any responsibility to tell them what their benefits are, do you, in other words the accident has to happen first before you have an obligation to do anything, correct?
MR. VANTONGEREN: I object.
THE WITNESS: Yes.
MR. VANTONGEREN: It misstates the law as to whether she had an obligation to tell all the benefits.
MR. MCKENNA: I'd haven't gotten there.
BY MR. MCKENNA:
Q Your policy on what you were trained, is that once this condition -- do you know what a condition precedent is?
A No.
Q A condition that occurs first. There's a condition that has to occur first before AAA has to pay any benefits, correct?
A Yes, an accident.
Q An accident involving the use, operation or maintenance of a motor vehicle as a motor vehicle?
A As a motor vehicle.

0057

Q Right?
A Right.
Q And the policy has to be paid or in effect, right?
A Correct.
Q Or a priority issue, someone living in a household with a relative?

telling them because you didn't know or AAA not telling them because they gave somebody a file that didn't know what they were doing, correct?"

BY MR. MCKENNA:

Q That's unreasonable?

A I guess I don't like that saying that I didn't know what I was doing. I knew what I was doing, but didn't know about a specific benefit.

Q Well, you knew what you were doing to the level of your knowledge?

A Yes.

Q But not knowing all of the benefits, would have you doing a job that you didn't know all of what you were doing?

A No, I did not know all of the benefits available.

Q And that would be unreasonable, wouldn't it, to not tell somebody because of your lack of knowledge or AAA's decision not to inform you?

A Yes.

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Q Correct?

A Yes.

Q Now, with respect to your insureds, you create a relationship with them when you handle a file, don't you?

A Yes.

Q You foster a relationship of trust and confidence with them, don't you?

A Try to.

Q I mean from the beginning that is what you were trying to establish, correct?

A Correct.

Q You want them to rely on you, correct?

A Yes.

Q You don't tell them you need to get a lawyer to explain to you these benefits, you don't say that?

A No.

Q You want to foster a relationship where the insured gets in an accident, where the family of the insureds that's been involved in the accident can trust and rely upon you as the claims representative to inform them of all of their benefits, correct?

A Correct.

Q That is the goal that you have been taught to

0072

establish by AAA with your insureds and their families, correct?

A Correct.

Q Not one where they distrust you or the company and go hire a lawyer, correct?

A Correct.

Q So you don't tell them, we will not tell you all of the benefits that you're entitled to, do you?

MR. VANTONGEREN: Object to the form of the question.

BY MR. MCKENNA:

Q You don't tell them that, do you?

A No.

Q You expect them to establish a friendly relationship, a trusting relationship with you, correct?

A Correct.

Q And then because of that trusting relationship you

expect them to rely on everything you tell them about their benefits, correct?
A Yes.
Q And once you start that relationship of trust, has AAA told you you can discontinue it?
A No.
Q Has AAA told you that once you get them into this

0073

relationship of trust where they rely on what you tell them, that you should then tell them, by the way for some of these benefits you need to go get a lawyer?
A No.
Q Has AAA told you that the purpose in your training that the purpose of establishing the No-Fault Act was to do away with the adversarial process of having lawyer and an insurance company fighting over these benefits?
A No.
Q That they were supposed to be paid through No-Fault, whether it was your fault in the accident or someone else's, that you would go to your own insurance company and you should trust them, did they tell you that?
MR. VANTONGEREN: Object, assumes facts not in evidence.
THE WITNESS: I don't know that.
BY MR. MCKENNA:
Q Is it your goal, has it been your goal as an adjuster to get all of your insureds to trust you?
A Yes.
Q And in that confidence of trust, that special

0074

relationship that you create with them, you then inform them of what benefits you believe they're entitled to?
A Yes.
Q And in that role of trust and confidence building between you and the insured, you don't expect them to go get a lawyer, do you?
A No.
Q You want them to rely on you whether you are right or you're wrong?
MR. VANTONGEREN: Object to the form of the question, it seems vague. She hasn't indicated that she offers legal opinions.
MR. MCKENNA: Neither have I.
MR. VANTONGEREN: You're suggesting it.
MR. MCKENNA: No.
BY MR. MCKENNA:
Q You want them to rely on your representation of their entitlement to benefits or claims, whether you're right or wrong, don't you?
Is that a yes?
A Yes.
Q In addition to room and board benefits, are you familiar with guardianship benefits?

0075

MR. VANTONGEREN: Could you be more specific?
BY MR. MCKENNA:
Q Are you familiar with the fact that AAA would have to pay for guardianship fees?
A Yes.
Q Are you familiar with the fact that AAA would have

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these claims in terms of payment specifically for attendant care?

A. No. My job is -- when I became a manager was over claims -- we weren't called claims reinsurance then, but it was over this reinsurance portion and the clerical staff, so my management duties were not necessarily over the adjusters.

Q. Well, were you ever in a position at AAA to make determinations as to the adequacy of payment, let's say to a family member providing family attendant care?

A. When I was an adjuster I handled my own cases and I would have looked at it. I looked at the home care payments.

Q. All right. Then when you say looked at the home care payments, would you mean that it was your job to know what the law was, to inform what the insured what the law was and to be sure they were receiving benefits consistent with Michigan no-fault law?

A. It was my duty to explain benefits to the insured and make sure that I was paying the appropriate rate, yes.

Q. All right. And how did you know what the appropriate rate was for family attendant care during

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the time that you were responsible for that information and advice?

A. I would call agencies and see what they were paying their aides. I'd investigate it by talking to the doctor to see what kind of care they needed, talk to the family to see what was being done.

Q. Okay. So it was basically a three pronged process, you had to find out what care was needed and you got that basically from the doctor and the family, and then you would go to agencies that provide that care and you would figure out what the rate was that they were paying their workers for like care; is that right?

A. Yes.

Q. And then you would advise the family that that's the rate that they were entitled to?

A. Yes.

Q. And then you would pay that rate?

A. Yes.

Q. All right. And then you would review that at six month intervals to be sure that the rate was being paid appropriately?

A. As you were handling your file you would review it as there was material changes or if there was any other -- you know, based on the need of the

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insured, if things had changed.

Q. Well, what about in some of these cases that are going on for 10 or 15 years and you looked at the rate in 1978 and it's now 1988, you wouldn't -- the rate that the agency is paying its workers has gone up in a 10 year period generally, wouldn't it?

A. Yes.

Q. So part of your job is to make sure that that rate is increased as time goes on; would that be fair to say?

A. Yes, but you wouldn't just consider the rate going up, you would still have to continue with your investigation of what all the needs were, if there had been any other changes on the case.

Q. Yeah, you would do the same thing you did in the beginning. You'd look at what the needs were by talking to the family and the doctor and then you would go to the aide agencies and find out what they're paying their people. It's the same process, it's just that you're doing it over and over again?

A. Is that a question?

Q. Yeah, question mark.

A. You would continue to investigate it any time you would make any kind of changes.

Q. But the investigation would be the same as

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the initial investigation, it's just an update, what are the needs and what are the agencies paying their employees for like services?

A. Yes.

Q. And the concept always has been that AAA pays -- strike that.

The concept always has been that AAA doesn't take advantage of family members providing services, the family members are entitled to the same pay that an agency employee receives?

A. AAA would not take advantage of their insureds.

Q. That wouldn't be right?

A. No.

Q. So to answer my question, though, what that means in your mind is that the family member would always be paid what the agency employees get paid; in other words, they shouldn't get any less than an arm's length employee of an agency for the same service?

A. Yes.

Q. All right. And that's always been AAA's position since you've been here?

A. It's always been one of the things we have looked at, yes.

Q. Well, is it your understanding that the

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to answer that.
Q. Well, I'm not asking if you've seen one.
A. I don't know what the process is because I haven't had any.
Q. All right. Now, the reserves that are established when you went to do the -- you didn't call it auditing, but you called it the branch intervention -- would that have been at the request of reinsurers and/or the cat fund that the branch intervention occurred?
A. Not to my knowledge.
Q. And you're currently a manager at medical management unit?
A. Right.
Q. Have you ever had a reinsurer ask you for justification on any files since you have been with the medical management unit as a manager?
A. On the MCAA.
Q. Never to a reinsurer?
A. No.
Q. Have you reviewed reports to reinsurers on catastrophic claims since you've been a manager with medical management unit?
A. No.
Q. Are you aware that there are reports that

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have been generated by other -- on files that are in medical management unit that other managers are handling?
A. No.
Q. So to your knowledge in all of the time you've been a manager of medical management unit you've never heard of a reinsurer asking for a report on a claim?
A. I've never been involved in any or seen any the whole time I've been with AAA.
Q. My question was: Are you aware from talking with other managers that there have been? You haven't seen it, you haven't heard it, no one's told you that they have been requested?
A. I can't think of a situation where I heard it, no.
(An off the record discussion was held).
BY MR. McKENNA:
Q. Is it your understanding that in these interventions that Mr. Garvey discussed with you that when you find an underpayment, it's the obligation -- assuming everybody in that room agreed there was an underpayment -- that at that point it's the obligation of the adjuster to inform the family?

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A. Of the new rate, yes.
Q. That there's been an underpayment?
A. That they should adjust the rate.
Q. Okay. Now, you understand that an insured is going to rely upon AAA's adjusters in understanding what benefits they are entitled to?
MS. KULIK: Object to the form and foundation of that.
You can answer if you can.
A. In some cases they rely on AAA.
BY MR. McKENNA:
Q. Well, when you were trained as an adjuster early on, you were told that you're going to explain these benefits to your insureds, weren't you?
A. Right.
Q. And you were told at that point they're going to rely on you to tell them what they're entitled to?
A. No, they never said the insured was going to rely on us.
Q. Well, is it your experience that the insureds rely on you to tell them what they're entitled to?
A. Some people had attorneys before we even had a chance to call them, so in those cases, no.

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Q. I'm not asking you about specific individual cases. In general, is it your understanding in what you have heard and have been taught at AAA that your insureds are primarily going to rely on the adjuster, the first person they contact with AAA, to give them the knowledge of what they're entitled to?
A. I have not been taught that they're going to have to rely on us. I believe that the expectation is to explain the benefits that they're entitled to.
Q. It wouldn't be unreasonable then for insureds to trust and then rely on statements by adjusters as to what benefits they are entitled to?
A. Right.
Q. And when it occurs that you find an underpayment at the point in time where everyone is agreeing to it, isn't it the obligation then of the adjuster to go back and find out how long it's been underpaid?
A. You have to look at each claim individually to see the circumstances to know how far back to actually go.
Q. I'm not asking about the specifics. I'm asking in general. You have now got a consensus at the table and everyone is in agreement that there's an

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containment?
A. No, it was done for people to be able to identify what the issues are with these people because they have unique issues, needs, equipment needs, home.
Q. My question was: Is part of the reason for doing that -- is one of the reasons, any part of a reason cost containment?
A. To my knowledge it wasn't brought up because of cost containment.
Q. Okay. You have specifically been trained, you told me, about budgeting issues with AAA, management unit issues with AAA and different seminars in your training. I had a couple of business classes and got a degree in it myself. When you organize departments like this, there's a reason for it and it always -- one of them always comes down to being cost. It's always more efficient to operate that way than in the individual branches. Are you saying as a manager of medical management unit you don't know whether this is a cost containment issue now?
A. I'm telling you that I've never heard that it was set up as a cost containment issue.
Q. I'm not saying that was the issue. I'm asking in part -- AAA doesn't do anything without them

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justifying the cost for it. Is part of -- or is part of the reason for doing it better cost control?
MS. KULIK: To the best of your knowledge.
BY MR. McKENNA:
Q. To your knowledge?
A. I don't know.
Q. Right now as a manager at AAA in medical management unit, would you agree that the setup the way it is now gives better cost control to AAA than the previous setup that you were familiar with?
A. I don't have any reports to know if it's controlled costs any differently.
Q. I didn't ask you about empirical data for it. I asked you your opinion as a manager. Do you believe that it is much -- it is more cost efficient or gives more cost control to the company to have it set up the way that it is now?
A. I don't know.
Q. Well, you can give me --
MS. KULIK: I think the witness has answered the question. She has no personal knowledge and she has no opinion that --
BY MR. McKENNA:
Q. Are you familiar with AAA ever doing

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anything that doesn't go through a cost benefit analysis?
A. Yeah, things happen that don't go through a cost benefit analysis.
Q. Such as?
A. Employees might get moved to a location because you don't want to risk -- well, I guess you would call that cost benefit analysis.
Q. Everything the company does has a cost benefit analysis, doesn't it?
A. No, I'm not going to say everything.
Q. You don't need to answer that for me.
MS. KULIK: Good.
BY MR. McKENNA:
Q. Even Karen recognizes that one.
MS. KULIK: Off the record.
(An off the record discussion was held).
BY MR. McKENNA:
Q. All right. I'm trying to finish the area that we're talking about with the different levels -- or call them levels two, three, medical management unit. Would you agree that by having an organization this way with people dealing with the special issues that you shouldn't have a situation where an adjuster

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is dealing with a catastrophically injured person and the adjuster doesn't understand what benefits the insured is entitled to?
A. I would agree.
Q. Whether you want to call it auditing or used the branch intervention term, the adjuster or the claims specialist, as you call them, in the medical management unit has supervisors and then managers and there's managers or regional managers over the top of all these people, somebody should be aware of abuse on a file whether it's from willful conduct or neglect and the payment of benefits to insureds, shouldn't they?
A. I would think if you're saying something is an obvious thing, they should know, yeah.
Q. Is it something that is an obvious thing that AAA adjusters or claims specialists would know that from year to year their rates that are paid are increased because of cost of living, increases from year to year?
A. Yes, I would have to say the amount would be something that might not be obvious but knowing that an increase is likely, yeah.
Q. So from year to year there should be a review of what rate is being paid?

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A. Right. That's where I indicated earlier that we would review annually.
Q. There shouldn't be a period of time for 10, 12 years where someone is paid the same rate?
A. Today there shouldn't be.
Q. And the reason it shouldn't be today is because the company has taken steps to make sure adjusters, supervisors and managers are all looking at things to make sure the insureds aren't being mistreated?
A. Right.
Q. And you would agree with me if the company did that today, your company could have done it yesterday?
MS. KULIK: Object to the form of the question.
BY MR. McKENNA:
Q. We're talking about management policies that were --
A. I don't know what might prompt changes in policies.
Q. You were trained in management principles?
A. Right.
Q. Budgeting?
A. Right.

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Q. We are not talking about rocket science where somebody invented a new atom, I'm talking about the way the company looked at payment and treatment of benefits to insureds, correct? All I'm talking about is the review process to make sure insureds are being paid a fair market rate from year to year. The only issue right now I'm dealing with now is you said today they should never be paid the same rate they were paid 10 or 12 years ago?
A. Yes, if I am answering your question from that point, we should have been reviewing it.
Q. Foundation of your answer was that today we have supervisors and managers, regional managers looking over these things and this shouldn't occur, right?
A. Right.
Q. My question to you is in the past to prevent these abuses from occurring, AAA could have established the same type of management principles?
A. Yes.
Q. And by not doing that in the past whenever insureds were underpaid, AAA benefitted as a company?
A. I guess that's a way of looking at it.
Q. Well, the less they pay out, the more they have, correct?

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A. I think it was something nobody identified.
Q. Is that correct?
MS. KULIK: I'm going to object to the form of the question and to the foundation.
BY MR. McKENNA:
Q. Ma'am, as a company when AAA pays money out whether it's to a doctor, to a family member, whatever the amount is, that's less than they have the next day, isn't it?
A. Right.
Q. And the more they keep but they don't pay out, whether it's from willful neglect or ignorance or intention, the more they have the next day?
A. Right.
MS. KULIK: Again I object to the form of the question and the foundation in that it ignores reimbursement.
BY MR. McKENNA:
Q. The last area I want to deal with, the absolute last area, I asked you a question earlier and it wasn't quite the answer I wanted. When an adjuster or supervisor, manager, regional manager finds an underpayment on a file, the adjuster should go back in theory and look to see how far back it goes. You then said me personally, I wouldn't go back beyond one year

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from the time I discovered it without being told by somebody in legal what to do. Is that an accurate recital of what you said earlier?
A. What I -- first of all, I don't know.
Q. Is that an accurate recital of your --
A. Well, no, I don't feel it is, but I would ask if we owe anything beyond the one year going back one year.
Q. You're going to legal as an adjuster --
A. Right.
Q. -- as a manager, a supervisor and you're asking them a question about the handling of this file --
A. Right.
Q. -- and you tell them -- assuming that you would tell them we have discovered somebody screwed up, there was a mistake made, an underpayment.
A. There could have been an attorney representing the person.
Q. I'm not even saying -- you have discovered it.
A. Right.
Q. Everyone at the table -- I'm trying not to go over the same things again.
MS. KULIK: Before you get the

Q. All right. Was I right?
A. Yes.
Q. But you would agree that the test, that the global way that AAA looked at the attendant care issue in the '80s was market rate, that was what the law said you had to pay, right?
A. The law?
Q. Yes.
A. The No-Fault Law said we had to pay market rate?
Q. Yes.
A. I don't know that the law said that.
Q. Okay. We'll talk about that.

You would agree that AAA's position at least was that the appropriate payment to a family member providing attendant care is a market rate, that's the test?

A. Yes.
Q. Okay. Would you agree that under certain circumstances the family is entitled to be paid what the agency does charge as opposed to what the aide gets?
A. Yes.
Q. And what circumstances are those?
A. Well, that has evolved over time. AAA now does pay what the agency rates are.
Q. In every case?

Q. And why were they [redacted] whether they were paid the agency rate or the aide rate?

A. A lot of it had just really evolved over time. I think there were some cases, number one, that, you know, cases that were -- I'm not saying that AAA necessarily lost, but that were cases that showed the families should be paid agency rates. So that was really the change that had evolved and the adjuster began to get agency rates and pay according to that.

Q. You mean the family members began getting agency rates?

A. Well, the adjuster would also call and get a rate.

Q. From you?

A. No. They would call agencies and find out what the agency rate was.

Q. Okay. And that was before the study that was done by the accounting firm?

A. Yes. I think that was going on after I left.

Q. Okay. So did you notice -- well, let me ask you this. What was your job as a manager of the medical management unit, what was your role?

A. I had three supervisors. Mine was administrative. There were three supervisors that looked at the claims of the adjusters on a daily basis, and they managed the adjusters and their claims.

difference or to make a change. And you indicate that you were an adjuster.

Was it your responsibility to take the claims that came in and to adjust each of the claims?

It was my job to adjust the claim, but I don't agree that it was to -- you used a term what did you say?

To make a difference to make a change.

To change it. It wasn't to change it, no.

So if a claim came in that for example had a $100.00 claim value to it and someone came in and gave you that, would you always just pay the amount that was being asked for or would you look at it to see whether or not there was a way to adjust and determine that that was, in fact, a reasonable rate, a fair rate?

If it was a reasonable customary rate for the service or the product it would get paid.

Would you agree that in order -- if you're adjusting from that standpoint, and I think we've already covered that you had to be educated and taught what the No-Fault Act was, correct?

Yes.

You would then have to be able to determine what is a reasonable and customary rate for the claims and services that are being submitted to you, correct?

A. Yes.

Q. And that you are essentially an employee of the insureds, they own the company and you work for the company, correct?

A. Yes.

Q. Your responsibility as an adjuster would be to also make sure that your insureds knew what their rights were?

A. Yes.

Q. So when an insured gets into an accident, under the No-Fault Act and under a AAA policy where they're injured arising out of the use, operation or maintenance of a motor vehicle, you would then as the claims adjuster inform them of all of the claims and rights that they have, correct?

A. Yes.

Q. Have you ever in the process of adjusting a claim overpaid someone?

A. Yes.

Q. And in the process of overpaying them and you discovered that they've been overpaid, what is your responsibility as the employee of AAA adjusting the claim, what do you, you just found out you overpaid someone?

A. You have to try to document as to why and how it got

overpaid.

So there would be as we talked earlier everything that happens on the file should be documented, right?

Should be.

Okay. So if there's an overpayment and you discover it, that may go to your knowledge of the product, correct?

Yes.

It may go to the way you're timely handling a file, correct?

es.

nd it may go to your ability to manage the file, rrect?

s.

d let's for example say somebody else overpaid a file d you were reassigned that file.

When you get that file, if you're ing to be responsible for it, you would want to know rything that transpired on that file before you got wouldn't you?

hin reason.

'd want to know what the injuries were for this on, correct?

would want to know the date they were injured.

correct?

A. Yes.

Q. You would want to have an idea of the type of injuries and treatment that were required initially, correct?

A. Yes.

Q. You'd want to be able to see what the status of the injury and treatment was as of the date you first got this new file, correct?

A. Yes..

Q. You'd want to then make sure that there were no overpayments. You'd go back and see what was being claimed and what was being paid out, correct?

A. I'm not sure that I would go back to square one to review every payment that was made as to -- I mean I would like to have a working knowledge as to, you know, who the person is and, you know, if they fall within the time frame of the accident and are reasonable and necessary and to the treatment.

Q. Let me give you an example. At AAA while you were adjusting first-party claims, did you use what is called a wage loss work sheet?

A. Yes.

Q. And the wage loss work sheet would have values and numbers for gross wages that they made for example, and who the employer was and things like that, correct?

function of handling, of taking and paying what was set-up by the medical management department with the Bearden family.

Q. All right. So just to make sure I understand what you're saying, there was a point in time that you were handling this that Brain's care was stabilized to the point of having his parents provide care for him during the day, during the evening, twenty-four hours a day?

A. He was getting home care and some PT and OT, physical therapy, occupational therapy.

Q. Was it your understanding that the parents were providing both what we call attendant care, looking after him, giving him medications that he needed; is that correct?

A. Yes, the mother and the father were.

Q. They were also providing what's called physical therapy or occupational therapy to him; is that correct?

A. That's what he claimed he was doing.

Q. And doctors that were treating physicians for Brian showed the parents how to do those or provide those services?

A. I don't know how they were educated.

Q. If you wanted to know you could have sent a letter off to the treating physician to ask what have the parents been shown as it relates to occupational therapy,

physical therapy?

A. I could have.

Q. Or any type of therapy, correct?

A. I could have.

Q. Now you understand that when physical therapy and occupational therapy is being provided to an insured, AAA is obligated to pay for that service?

A. Yes.

Q. And if attendant care is being provided, AAA is obligated to pay for that service?

A. Yes.

Q. If medical care is being provided in the home, AAA is obligated to pay for that service, correct?

A. Yes.

Q. Is it your understanding that AAA is obligated to pay for all of those that we've discussed at different rates depending on what is being provided?

A. Yes, that would be, it could change as time goes on.

Q. In other words, someone who is being provided just attendant care, watching over them, making sure they don't get injured, may get paid at a lower rate than someone who is providing attendant care plus providing medical, prescribing drugs, making sure they're being taken, et cetera?

A. Yes.

Q. And then if they're providing attendant care, dispensing medicines on schedule and checking devices, appliances, things that may be, that would be an additional amount that AAA may have to pay, correct?

MS. KULIK: I just want to put an objection on the record again to the form of the question. I think there's issue as to what aides can, should and are compensated for doing and what you're saying may fall under what an aide does, being you are not being specific

MR. MCKENNA: Fair enough. I'm trying to avoid being specific, so I don't have your objections.

BY MR. MCKENNA:

Q. Do you understand what I'm asking, sir?

A. I understand.

Q. As the level of care goes up, generally the level of compensation goes up?

A. Yes.

Q. And I'm not trying to ask you specifics because I don't want to get into it and be wrong one way or the other. I might be off on one way and you might be off. But in general the more care that's being provided, the higher the compensation for providing it?

MS. KULIK: I'm going to object

again to the form of the question. I think maybe you can just say the level of care as opposed to more care.

You're making it quantitative rather than qualitative.

MR. MCKENNA: I'll make it real clear.

BY MR. MCKENNA:

Q. There's twenty-four hour care that we've already agreed to and talked about with Brian Bearden. The level of care that's being provided to him will determine what the compensation rate is, correct?

A. Within reason. I think that's fair as to, you know, whether it's care being given as far as attendant care, whether it's skilled care, yes. Skilled care is going to be demanding more money than just normal attendant care will be.

Q. And I'm trying to avoid labels to it. I guess what I'm trying to do is ask you on an incremental basis, not the quantity of care but the level of the care that's being provided.

The greater the level of care, you're not just watching the person anymore, you're now dispensing medicines, that is going to in general require a larger or greater compensation rate than just watching you, correct?

A. Generally.

Q. And as you add to the level of care being provided, generally the compensation rate for that level of care goes up, correct?

A. Most of the time, yes.

Q. Now, if you have an insured who is getting paid, who is making a claim for attendant care and they're being provided attendant care on a twenty-four hour basis, you would have to pay on the twenty-four hour basis depending on the level of care provided, correct?

A. Generally, yes.

Q. And if, for example, you have a private nursing facility that's doing the work, you would pay them based upon the hours that they submit, and you would check to see level of care and approve or disapprove of the request for payment, correct?

A. Right.

Q. If it's a private care facility it has a nurse at the home and the nurse is there for twelve hours, you would be paying for overtime, wouldn't you?

A. I'm not familiar with overtime in the respect that whether they could -- the facility could bring in another nurse to work the next eight hour shift or whatever it would be and pay the first one eight hours and the next one eight hours, or if the next one works

twelve, whether or not they were entitled to overtime or what. I know that -- I guess it would depend on the facility and the availability of nurses to come in and do the job that was being done after the eight hours.

Q. Are you familiar with case law in Michigan that deals with attendant care being provided by family members?

A. Somewhat, yes.

Q. All right. Are you familiar that an insurance company such as AAA according to Michigan Case Law are to pay family members the same customary rate that would be charged by non-family members for the same service?

A. Yes.

MS. KULIK: I'm going to object to the form of the question. I'm not sure you're correctly stating case law. I think family members are entitled to be paid as are outside providers. I think that's clear and I think that's what the case law says. Just because it's a family member doesn't mean they're not owed.

MR. MCKENNA: Let me try it a different way, maybe we can see if we can clear it up.

BY MR. MCKENNA:

Q. Are you familiar with the term customary market rates?

A. Yes.

Q. All right. Are you familiar with the fact that

Michigan Case Law requires an insurance company to pay customary market rates?

A. Yes.

Q. So if the customary market rate for attendant care was to pay time and a half for time over eight hours, AAA would be obligated to pay the customary market rate time and a half, correct?

A. I never got involved in that, I don't know.

Q. I'm not asking whether you did or you didn't. I'm saying to you, sir, if the customary market rate is to pay time and a half over eight hours, and AAA has to pay the customary market rate, AAA would have to pay the time and a half, wouldn't they?

A. Yes, sounds like it.

MS. KULIK: I'm going to have to again object to the form of the question.

AAA has to pay what is reasonable, necessary and incurred, whether or not whatever your definition of market rate.

MR. MCKENNA: I haven't given one.

MR. MCKENNA:

I'm not trying to put words in your mouth. Is that the answer you gave? I want to make sure she has it on the record.

I believe I said yes.

Q. But did you also say it sounds reasonable?

A. I don't recall if that was adjusted in.

Q. Does it sound reasonable to you what I asked you then, sir, or I'll ask it again?

A. Rephrase the question again or give me the question again.

Q. We've established that customary market rates is what you would pay, correct?

A. Yes.

Q. And if customary market rates included paying for overtime, time and a half over eight hours, AAA would have to pay the time and a half as a customary market rate, correct?

A. Yes.

Q. And does that sound reasonable to you?

A. Yes.

Q. Okay. Now, if the customary market rate is to pay that and a family member is providing it, then AAA should be paying that rate to family members providing the same level of service, correct?

A. Yes.

Q. And holiday time, do you know what holiday time is?

A. Yes.

Q. Are you familiar with -- well, strike that. Let me ask you this way.

on your education and training with AAA. Is that a correct statement?

A. That's correct, but --

Q. Going into the analysis as to pay or not pay, involves determining whether it's reasonable, necessary and related, correct?

A. Yes.

Q. And under the No-Fault Act, and you're familiar with it, if there is a claim for benefits arising out of the use, operation or maintenance of a motor vehicle, AAA has to pay those claims as long as they are reasonable, necessary and related to the automobile accident, correct?

A. That's correct.

Q. So once you have determined that someone such as Brian Bearden has been injured in an automobile accident, and there's a claim that's being made, the only thing left to determine is whether it's related to the accident, correct?

A. Yes.

Q. Necessary because of the accident, correct?

A. Yes.

Q. And reasonable, correct?

A. Yes.

Q. And you as the adjuster are the one that makes that

decision?

MS. KULIK: Again, I'm going to object to the form of that question. Reasonableness and the law are not necessarily the same thing. And an adjuster may feel something is reasonable, but if it's not a covered benefit the way the law has been interpreted.

MR. MCKENNA: Karen, when you say I'm going to object the same way, you can stop right there and it's protected.

BY MR. MCKENNA:

Q. All right.

A. Let me add to your question the last one.

As to making these decisions, keep in mind that the serious type injuries, the catastrophic injuries, the paraplegic, quadriplegic, the head injuries, bad burns and so on were never handled by me. In other words, as to determining the amount of care and the level, not necessarily the amount of care and the home care and the attendant care and all that was generally always handled by another department. I didn't get involved as to --

Q. I understood that.

A. -- those kind of things.

Q. I understood that from what you said before.

But you did get involved in this particular case for a time period in dealing with the benefit of attendant care, correct?

I did get involved in it only that I was given something to continue paying that was already agreed upon and set-up. I didn't change anything and I didn't adjust anything. I paid what was submitted to me, which I was told that was going to be submitted and to continue paying as we had done in the past by the adjuster who was in the medical management department who reassigned it back to the branch.

Who was the adjuster that told you to pay a certain rate when you got the file from medical management, who was that person?

It wasn't -- the file was -- I think if memory serves me correctly, the adjuster that sent it back to me to handle at the branch level for medical management was Debbie Newcom. And I was told that Mr. Bearden will be submitting, you know, his time and the nursing care will be there and you'll probably be getting some prescription.

There was no formal care that was going to be given. So I just started paying what they had been paying and it continued on until I left.

So you never made an inquiry into the reasonableness of

what you were paying for attendant care?

A. No.

Q. You just paid what you were told to?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Who was looking out for Mr. Bearden in that process to make sure that he was not being undercompensated?

A. My limited conversations with Mr. Bearden and with the medical management department were such that Mr. Bearden knew as much about the product as we knew. In other words he knew what he was entitled to and submit. It wasn't like generally speaking a person needs to be spoon fed and walked through. He did the spanning. He was very educated as to the claim, my knowledge of it with him.

Q. That wasn't my question. My question was who was looking out for Mr. Bearden, Senior, and young Mr. Bearden to make sure that they were not undercompensated if all you were doing was rubber stamping the claim?

A. Mr. Bearden was looking out for Mr. Bearden.

Q. And you've already told me that it's the policy of AAA, and it was the policy that you followed through the time that you worked there for you to look out for your

insured's best interest to make sure they were not undercompensated or overcompensated, correct?

A. When you made your evaluation of who you were dealing with and their knowledge of what was understood and what wasn't understood, some people need a whole lot of hand walking through the claim. Other people know all the steps and you don't have to hold their hand to walk them through.

So as a result in my experience, Mr. Bearden he didn't need anybody to look after his interest because he knew everything about his interest. And he also had an attorney that he had been discussing with, that I was assuming that he was giving him direction as to what he should be doing.

Q. You're talking about who, who is the attorney?

A. I don't know, he told me my attorney, whoever his attorney was.

Q. Did you document that in the file?

A. I wasn't on any retention from him. I didn't have any letter in the file from any attorney, but just in conversations with him where if he would call me, I recall where he had mentioned his attorney, and as to who he was and all that I don't recall.

Q. Did you document in your file that he had mentioned to you his attorney?

A. Probably not.

Q. You're supposed to document the mention of an attorney on a first-party case, aren't you?

A. If there's -- if we're put on notice.

Q. Right. When you find out that there is an attorney --

A. Yes.

Q. -- and there's an attorney mentioned by an insured --

A. Yes.

Q. -- are you supposed to make sure that the file is documented to reflect the status of whether or not there is an attorney notice or lien position on that file, correct?

A. Right.

Q. Did you do that in this case when you had these conversations -- let me finish my question.

Did you do that on this case when you had this discussion with Mr. Bearden and you recall an attorney being mentioned?

A. He never told me that anybody was retained.

Q. That's not what I asked.

Did you document the file and request that there be retention and/or lien waivers placed in that file once you heard that he had talked to an attorney?

A. No.

Q. Now, sir, are you familiar with the mental status of Brian Bearden?

A. No.

Q. Were you aware that he was brain damaged?

A. Yes.

Q. Did you know at what level of cognition he was functioning at?

A. No.

Q. Was it your understanding that he would need a guardian or conservator for the rest of his life at the last time you were handling his file?

A. Yes. I didn't think that he could make decisions on his own.

Q. Are you familiar with Michigan law as it relates to claims being made against insurance companies for first-party benefits and the Statute of Limitations?

Am I familiar with the Statute of Limitations?

And first-party claims?

First-party claims?

Yes.

I believe so, yes.

Okay. Is it your understanding that the No-Fault Act has what's called a one-year back rule?

Right.

Are you familiar that the one-year back rule does not

apply to certain classes of people?

A. Right.

Q. And Brian Bearden would be one of the people that fit that class?

A. Right.

Q. And as a result when Brian would find out whether it through me, Mr. Garvey or someone else that there were benefits that he was entitled to that were never paid, he can make the claim at any point, correct?

A. Right.

Q. And when if Mr. Bearden were to have found out through his attorneys at some subsequent date that Brian was not paid for room and board, those claims could be made today, correct?

A. I'm not familiar with the room and board as to how it applies.

Q. I'm going to go through the litany of if it applied to this case, he could make the claim, it wouldn't be barred. Is that a fair statement?

A. Yes.

Q. Wage loss, correct?

A. Right.

Q. Any of the first-party benefits?

A. Wage loss for who?

Q. For Brian?

without seeing it I don't know that. I don't know that form.

Q. I have a report dated 2-1-01. And at the end it talks about request from reinsurer regarding current medical report, but at the end it has "C. Reipath/MMI."

Is that the name of somebody that works in the medical management unit?

A. Again I left the company, but the name is somebody in medical management that I think that does an update on, oh, some type of --

MS. KULIK: I can clarify for the record. Cindy Reipath at the time I believe it was part of MMI is part of the unit that does the reporting to MCCA and claims reinsurers.

There is a part of the file, and I'm not sure if you got a copy of it, if you didn't I can produce it, the claims reinsurance file as opposed to what is contained in that file.

MR. MCKENNA: Yes. I don't have that and I don't have that home care survey.

MS. KULIK: I don't know that that form exists anywhere. It's my understanding that that was a one-time survey as to what was being paid and whether or not it was put in the file or forwarded to the people doing the study, it's not part of the file.

I didn't see it in the file.

MR. MCKENNA: The study itself?

MS. KULIK: It was -- we can discuss it. It's a discovery issue.

MR. MCKENNA: Yes, because we've asked for the documents and I don't have them.

MS. KULIK: Right, that was someone asking for what was being paid on files as opposed to just this particular file. ——

MR. MCKENNA: But you gave us part of that already, that's also part of that.

MS. KULIK: No, that's not part of it.

MR. MCKENNA: Sure. There's the part where there was the study.

MS. KULIK: The study was done by Planta and Moran, that was a home care survey. This was an internal finding out what was being paid on the files just as opposed to the external file.

MR. MCKENNA: If I get the external, I don't know why I can get the internal if there's no litigation pending on that.

I want to see the home health care form that was filled out, I don't have it.

Is there any reason why you can't

produce it?

MS. KULIK: I don't know. I don't know if it still exists. It was not part of this file, but we can certainly see if it exists.

MR. MCKENNA:

Sir, were you paying checks out on claims in 2000 when you left for attendant care?

Yes.

You would have an idea then of what the reasonable rate was for the type of attendant care that was being provided by the Bearden family, wouldn't you?

No, I was just paying what was set down by medical management and what he had submitted to me.

What were you paying Mr. Bearden in 2000?

For what?

For attendant care?

I think attendant care I was paying $6.00 an hour and PT and OT I think I was paying $10.00 an hour.

And as far as that being reasonable or undercharged or underpaid rather, you made no assumption one way or another, you just rubber stamped what medical management did, correct?

Basically, yes, under the fact that that was my interpretation that was an agreement made with Mr. Bearden, and he never asked for anything and never

questioned it.

Q. That was an assumption that you made, correct? Is that what you said?

A. I didn't assume he didn't ask for anything. He never did ask for anything.

Q. So if an insured doesn't ask and is being underpaid, do you have any obligation to inform them that they're underpaid?

A. Yes.

Q. So him not asking is irrelevant for more?

A. Correct.

Q. Because AAA has an obligation to pay him the value, true value of his service?

A. Yes.

Q. And if I were to say to you today that $6.00 an hour was all that was paid from approximately 1986 to the present, do you have an opinion as an adjuster with AAA as to whether or not that was reasonable for the level of care that was being provided to Brian Bearden?

A. I believe that there was some litigation involved in this matter.

Q. I just asked you whether you believed it to be reasonable or not, sir, $6.00 from 1986 for attendant care?

Q. You would say to say, that's unreasonable, wouldn't you?
A. Yes.
Q. So if they don't even know what the value of the claim is or they, you know, for example -- let me give you this example.

Have you had cases where there were twenty-four hour attendant care claims?
A. Yes.
Q. And you can tell a twenty-four hour claim after how many years of experience, twenty-five, twenty-six years?
A. Yes.
Q. You can tell for example -- you're familiar with this case, aren't you?
A. Yes.
Q. Did you go back and look at the medical history for Brian?
A. Basically, no.
Q. Were you aware that he was in a coma for six weeks?
A. No.
Q. Were you aware that he was hospitalized for an extensive period of time after the coma?
A. No.
Q. In a nursing facility?

A. I knew he was in a nursing facility.
Q. Seizure medication, seizures?
A. Yes, I knew that.
Q. Surgeries?
A. I don't know what surgeries he had, no.
Q. Were you aware that the file documented to you when you got it that he needed twenty-four hour attendant care?
A. Yes.
Q. Were you aware that he needed that since the time of the accident?
A. I'll have to say yes.
Q. Now, if you know that he needed twenty-four hour care from the time of the accident, and you know that he had certain extensive types of injuries, you would be able to tell say the father if he was turning in a claim for four hours of care, but he was watching him for twenty-four, you would recognize that, wouldn't you, and say to him, no, sir, we're going to pay you for twenty-four hours because that's what the reasonable and customary market charge would be?
A. Are you talking about this particular case?
Q. This particular case?
A. This particular case when I got it it was basically what we would consider a maintenance file.
Q. What's that mean?

A. Well, that, you know, basically he had -- how can I explain it. It would be to the point to where basically all we're doing is paying the medical bills on it and keeping an eye on his progress or if he got any better or any worse.
Q. Aren't you paying attendant care?
A. Yes.
Q. Well, in order to understand the attendant care, don't you need to know how many hours he needs, even if it's a maintenance file?
A. Yes.
Q. So if the dad is turning in -- let's go back and say it's not a maintenance file. Let's say you started on this file just as a hypothetical earlier on, and you know he needs twenty-four hour care, but the dad doesn't turn in for twenty-four hour care, is it the adjuster's responsibility based on AAA policy and procedure to tell the insured, that you know you're entitled to twenty-four hour care, we know you're giving twenty-four hour care, we're going to pay you for twenty-four hours?

Well, what we would do, yes, find out exactly if the person needs twenty-four hour and he's only charging X amount, we would find out why and then we would confirm

Q. In this particular case I've asked you the question, you've reviewed the file. There's no dispute in the file that Brian needed twenty-four hour care from day one?
A. Correct.
Q. So if his dad is not turning in for twenty-four hours and you already know that he's entitled to care for twenty-four hours, wouldn't you tell him that?
A. Yes.
Q. And then you would pay him for the twenty-four hours?
A. Yes, if he was giving him twenty-four hour care, yes.
Q. So it wouldn't be fair to short the Beardens through their own ignorance or through whatever reason, if they're entitled to twenty-four, you should pay them for twenty-four?
A. That's correct.
Q. And even if they didn't submit it for twenty-four hours, you should be as the adjuster looking out for their best interest, shouldn't you?
A. Yes.
Q. And saying, Mr. Bearden, you know you keep turning it in for sixteen, twelve, eighteen, I'm going to make this check again for twenty-four hours, your son's entitled to twenty-four hours, we don't dispute that.

A. Well, again you would have to find out why he's not. You talk it over with him.

Q. Doesn't matter why, does it. You owe him a reasonable amount for twenty-four hour care if he needs twenty-four hour care, don't you?

A. Yes. But whether or not he wants to accept, I've had people not want to accept it.

Q. That's fine. But you owe it to them to explain to them they're entitled to twenty-four hours?

A. That's correct.

Q. You should make the check to them and have them at least reject that, shouldn't you?

MS. KULIK: I'm going to object to the form of the question. I think you're getting argumentative. All that matters is what's owed under the policy and under the No-Fault Act now.

MR. MCKENNA: I take exception to the comment that I'm argumentative. I don't think I've been anything near argumentative with any witness today.

MS. KULIK: I think the question's argumentative. I didn't say you were.

BY MR. MCKENNA:

Q. Do you remember the question?

A. No, could you repeat it, please.

Q. Sure, I'll try my best.

My question is, when you have an insured who is making a claim or a caregiver that's making a claim for less than you know that they're entitled to, you have an obligation to inform them of that, don't you?

A. Yes.

Q. Just like when they make a claim that's asking for more than they're entitled to --

A. That's correct.

Q. -- you have an obligation to inform them of that, right?

A. Yes.

Q. And you know what room and board claims are, don't you?

A. No.

Q. Have you ever paid a room and board claim?

A. No.

Q. Has AAA ever given you, I forget what you call them, a bulletin, procedure bulletin on room and board?

A. Not that I know of, no.

Q. Are you aware of the Manley decision?

A. No.

Q. Versus was it DIRA, one of the AAA companies?

A. No.

Q. How about Reed Court of Appeals case?

A. No.

Q. Has anyone ever told you that if an insured like Brian didn't have family and/or friends to care for him, that AAA would in the case of someone like Brian be obligated to pay for adult foster care?

A. No.

Q. If Brian didn't have his parents and he had no one else to go to and he was placed in adult foster care, who would have to pay for that?

A. I don't know at this time.

Q. If I were to make a claim tomorrow?

A. If he needed continuous care, yes, we would pay for that.

Q. Doesn't he need continuous care?

A. Brian Bauman, yes.

Q. I thought we already established that. I don't want to go back over the same ground again.

But if his mom and dad weren't there right now to take care of him and he had to be placed into an adult care facility, AAA would have to pay for that, wouldn't they?

Yes, we would pay for that under attendant care.

Right. And you would pay the reasonable charge for that, wouldn't you?

Q. And in that charge would be included a charge for him staying there?

A. Yes. It would be like a residential fee for him.

Q. AAA would have to pay for his room and board there, wouldn't they?

A. Yes.

Q. Okay. So if AAA has to pay the reasonable market rates for attendant care, don't they?

A. Yes.

Q. The market charges for it, correct?

A. Yes.

Q. And AAA has to pay family members those market rates?

A. Yes, but usually your facilities have to charge a little more because of the administrative and overhead fees.

Q. You've read Karen's memo?

A. No. That's been like that for a long time.

Q. Administrative and overhead fees such as scheduling people, correct?

A. Yes.

Q. Making arrangements to drive somebody to and from somewhere?

A. No. What I mean by that, a facility that's running a business has their administrative fee, their rent for

difference or to make a change. And you indicate that you were an adjuster.

Was it your responsibility to take the claims that came in and to adjust each of the claims?

It was my job to adjust the claim, but I don't agree that it was to -- you used a term what did you say?

To make a difference to make a change.

To change it. It wasn't to change it, no.

So if a claim came in that for example had a $100.00 claim value to it and someone came in and gave you that, would you always just pay the amount that was being asked for or would you look at it to see whether or not there was a way to adjust and determine that that was, in fact, a reasonable rate, a fair rate?

If it was a reasonable customary rate for the service or the product it would get paid.

Would you agree that in order -- if you're adjusting from that standpoint, and I think we've already covered that you had to be educated and taught what the No-Fault Act was, correct?

Yes.

You would then have to be able to determine what is a reasonable and customary rate for the claims and services that are being submitted to you, correct?

A. Yes.

Q. And that you are essentially an employee of the insureds, they own the company and you work for the company, correct?

A. Yes.

Q. Your responsibility as an adjuster would be to also make sure that your insureds knew what their rights were?

A. Yes.

Q. So when an insured gets into an accident, under the No-Fault Act and under a AAA policy where they're injured arising out of the use, operation or maintenance of a motor vehicle, you would then as the claims adjuster inform them of all of the claims and rights that they have, correct?

A. Yes.

Q. Have you ever in the process of adjusting a claim overpaid someone?

A. Yes.

Q. And in the process of overpaying them and you discovered that they've been overpaid, what is your responsibility as the employee of AAA adjusting the claim, what do you, you just found out you overpaid someone?

A. You have to try to document as to why and how it got

overpaid.

So there would be as we talked earlier everything that happens on the file should be documented, right?

Should be.

Okay. So if there's an overpayment and you discover it, that may go to your knowledge of the product, correct?

Yes.

It may go to the way you're timely handling a file, correct?

es.

nd it may go to your ability to manage the file, rrect?

e.

d let's for example say somebody else overpaid a file d you were reassigned that file.

When you get that file, if you're ing to be responsible for it, you would want to know rything that transpired on that file before you got wouldn't you?

hin reason.

'd want to know what the injuries were for this nt, correct?

would want to know the date they were injured.

correct?

A. Yes.

Q. You would want to have an idea of the type of injuries and treatment that were required initially, correct?

A. Yes.

Q. You'd want to be able to see what the status of the injury and treatment was as of the date you first got this new file, correct?

A. Yes..

Q. You'd want to then make sure that there were no overpayments. You'd go back and see what was being claimed and what was being paid out, correct?

A. I'm not sure that I would go back to square one to review every payment that was made as to -- I mean I would like to have a working knowledge as to, you know, who the person is and, you know, if they fall within the time frame of the accident and are reasonable and necessary and to the treatment.

Q. Let me give you an example. At AAA while you were adjusting first-party claims, did you use what is called a wage loss work sheet?

A. Yes.

Q. And the wage loss work sheet would have values and numbers for gross wages that they made for example, and who the employer was and things like that, correct?

Q. And why were they [redacted] whether they were paid the agency rate or the aide rate?

A. A lot of it had just really evolved over time. I think there were some cases, number one, that, you know, cases that were -- I'm not saying that AAA necessarily lost, but that were cases that showed the families should be paid agency rates. So that was really the change that had evolved and the adjuster began to get agency rates and pay according to that.

Q. You mean the family members began getting agency rates?

A. Well, the adjuster would also call and get a rate.

Q. From you?

A. No. They would call agencies and find out what the agency rate was.

Q. Okay. And that was before the study that was done by the accounting firm?

A. Yes. I think that was going on after I left.

Q. Okay. So did you notice -- well, let me ask you this. What was your job as a manager of the medical management unit, what was your role?

A. I had three supervisors. Mine was administrative. There were three supervisors that looked at the claims of the adjusters on a daily basis, and they managed the adjusters and their claims.

Q. All right. Was I right?
A. Yes.
Q. But you would agree that the test, that the global way that AAA looked at the attendant care issue in the '80s was market rate, that was what the law said you had to pay, right?
A. The law?
Q. Yes.
A. The No-Fault Law said we had to pay market rate?
Q. Yes.
A. I don't know that the law said that.
Q. Okay. We'll talk about that.

You would agree that AAA's position at least was that the appropriate payment to a family member providing attendant care is a market rate, that's the test?

A. Yes.
Q. Okay. Would you agree that under certain circumstances the family is entitled to be paid what the agency does charge as opposed to what the aide gets?
A. Yes.
Q. And what circumstances are those?
A. Well, that has evolved over time. AAA now does pay what the agency rates are.
Q. In every case?

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A. Right. That's where I indicated earlier that we would review annually.
Q. There shouldn't be a period of time for 10, 12 years where someone is paid the same rate?
A. Today there shouldn't be.
Q. And the reason it shouldn't be today is because the company has taken steps to make sure adjusters, supervisors and managers are all looking at things to make sure the insureds aren't being mistreated?
A. Right.
Q. And you would agree with me if the company did that today, your company could have done it yesterday?
MS. KULIK: Object to the form of the question.
BY MR. McKENNA:
Q. We're talking about management policies that were --
A. I don't know what might prompt changes in policies.
Q. You were trained in management principles?
A. Right.
Q. Budgeting?
A. Right.

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Q. We are not talking about rocket science where somebody invented a new atom, I'm talking about the way the company looked at payment and treatment of benefits to insureds, correct? All I'm talking about is the review process to make sure insureds are being paid a fair market rate from year to year. The only issue right now I'm dealing with now is you said today they should never be paid the same rate they were paid 10 or 12 years ago?
A. Yes, if I am answering your question from that point, we should have been reviewing it.
Q. Foundation of your answer was that today we have supervisors and managers, regional managers looking over these things and this shouldn't occur, right?
A. Right.
Q. My question to you is in the past to -- prevent these abuses from occurring, AAA could have established the same type of management principles?
A. Yes.
Q. And by not doing that in the past whenever insureds were underpaid, AAA benefitted as a company?
A. I guess that's a way of looking at it.
Q. Well, the less they pay out, the more they have, correct?

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A. I think it was something nobody identified.
Q. Is that correct?
MS. KULIK: I'm going to object to the form of the question and to the foundation.
BY MR. McKENNA:
Q. Ma'am, as a company when AAA pays money out whether it's to a doctor, to a family member, whatever the amount is, that's less than they have the next day, isn't it?
A. Right.
Q. And the more they keep but they don't pay out, whether it's from willful neglect or ignorance or intention, the more they have the next day?
A. Right.
MS. KULIK: Again I object to the form of the question and the foundation in that it ignores reimbursement.
BY MR. McKENNA:
Q. The last area I want to deal with, the absolute last area, I asked you a question earlier and it wasn't quite the answer I wanted. When an adjuster or supervisor, manager, regional manager finds an underpayment on a file, the adjuster should go back in theory and look to see how far back it goes. You then said me personally, I wouldn't go back beyond one year

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from the time I discovered it without being told by somebody in legal what to do. Is that an accurate recital of what you said earlier?
A. What I -- first of all, I don't know.
Q. Is that an accurate recital of your --
A. Well, no, I don't feel it is, but I would ask if we owe anything beyond the one year going back one year.
Q. You're going to legal as an adjuster --
A. Right.
Q. -- as a manager, a supervisor and you're asking them a question about the handling of this file --
A. Right.
Q. -- and you tell them -- assuming that you would tell them we have discovered somebody screwed up, there was a mistake made, an underpayment.
A. There could have been an attorney representing the person.
Q. I'm not even saying -- you have discovered it.
A. Right.
Q. Everyone at the table -- I'm trying not to go over the same things again.
MS. KULIK: Before you get the

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containment?
A. No, it was done for people to be able to identify what the issues are with these people because they have unique issues, needs, equipment needs, home.
Q. My question was: Is part of the reason for doing that -- is one of the reasons, any part of a reason cost containment?
A. To my knowledge it wasn't brought up because of cost containment.
Q. Okay. You have specifically been trained, you told me, about budgeting issues with AAA, management unit issues with AAA and different seminars in your training. I had a couple of business classes and got a degree in it myself. When you organize departments like this, there's a reason for it and it always -- one of them always comes down to being cost. It's always more efficient to operate that way than in the individual branches. Are you saying as a manager of medical management unit you don't know whether this is a cost containment issue now?
A. I'm telling you that I've never heard that it was set up as a cost containment issue.
Q. I'm not saying that was the issue. I'm asking in part -- AAA doesn't do anything without them

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justifying the cost for it. Is part of -- or is part of the reason for doing it better cost control?
MS. KULIK: To the best of your knowledge.
BY MR. McKENNA:
Q. To your knowledge?
A. I don't know.
Q. Right now as a manager at AAA in medical management unit, would you agree that the setup the way it is now gives better cost control to AAA than the previous setup that you were familiar with?
A. I don't have any reports to know if it's controlled costs any differently.
Q. I didn't ask you about empirical data for it. I asked you your opinion as a manager. Do you believe that it is much -- it is more cost efficient or gives more cost control to the company to have it set up the way that it is now?
A. I don't know.
Q. Well, you can give me --
MS. KULIK: I think the witness has answered the question. She has no personal knowledge and she has no opinion that --
BY MR. McKENNA:
Q. Are you familiar with AAA ever doing

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anything that doesn't go through a cost benefit analysis?
A. Yeah, things happen that don't go through a cost benefit analysis.
Q. Such as?
A. Employees might get moved to a location because you don't want to risk -- well, I guess you would call that cost benefit analysis.
Q. Everything the company does has a cost benefit analysis, doesn't it?
A. No, I'm not going to say everything.
Q. You don't need to answer that for me.
MS. KULIK: Good.
BY MR. McKENNA:
Q. Even Karen recognizes that one.
MS. KULIK: Off the record.
(An off the record discussion was held).
BY MR. McKENNA:
Q. All right. I'm trying to finish the area that we're talking about with the different levels -- or call them levels two, three, medical management unit. Would you agree that by having an organization this way with people dealing with the special issues that you shouldn't have a situation where an adjuster

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is dealing with a catastrophically injured person and the adjuster doesn't understand what benefits the insured is entitled to?
A. I would agree.
Q. Whether you want to call it auditing or used the branch intervention term, the adjuster or the claims specialist, as you call them, in the medical management unit has supervisors and then managers and there's managers or regional managers over the top of all these people, somebody should be aware of abuse on a file whether it's from willful conduct or neglect and the payment of benefits to insureds, shouldn't they?
A. I would think if you're saying something is an obvious thing, they should know, yeah.
Q. Is it something that is an obvious thing that AAA adjusters or claims specialists would know that from year to year their rates that are paid are increased because of cost of living increases from year to year?
A. Yes, I would have to say the amount would be something that might not be obvious but knowing that an increase is likely, yeah.
Q. So from year to year there should be a review of what rate is being paid?

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to answer that.
Q. Well, I'm not asking if you've seen one.
A. I don't know what the process is because I haven't had any.
Q. All right. Now, the reserves that are established when you went to do the -- you didn't call it auditing, but you called it the branch intervention -- would that have been at the request of reinsurers and/or the cat fund that the branch intervention occurred?
A. Not to my knowledge.
Q. And you're currently a manager at medical management unit?
A. Right.
Q. Have you ever had a reinsurer ask you for justification on any files since you have been with the medical management unit as a manager?
A. On the MCAA.
Q. Never to a reinsurer?
A. No.
Q. Have you reviewed reports to reinsurers on catastrophic claims since you've been a manager with medical management unit?
A. No.
Q. Are you aware that there are reports that

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have been generated by other -- on files that are in medical management unit that other managers are handling?
A. No.
Q. So to your knowledge in all of the time you've been a manager of medical management unit you've never heard of a reinsurer asking for a report on a claim?
A. I've never been involved in any or seen any the whole time I've been with AAA.
Q. My question was: Are you aware from talking with other managers that there have been? You haven't seen it, you haven't heard it, no one's told you that they have been requested?
A. I can't think of a situation where I heard it, no.

(An off the record discussion was held).

BY MR. McKENNA:
Q. Is it your understanding that in these interventions that Mr. Garvey discussed with you that when you find an underpayment, it's the obligation -- assuming everybody in that room agreed there was an underpayment -- that at that point it's the obligation of the adjuster to inform the family?

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A. Of the new rate, yes.
Q. That there's been an underpayment?
A. That they should adjust the rate.
Q. Okay. Now, you understand that an insured is going to rely upon AAA's adjusters in understanding what benefits they are entitled to?

MS. KULIK: Object to the form and foundation of that.

You can answer if you can.

A. In some cases they rely on AAA.

BY MR. McKENNA:
Q. Well, when you were trained as an adjuster early on, you were told that you're going to explain these benefits to your insureds, weren't you?
A. Right.
Q. And you were told at that point they're going to rely on you to tell them what they're entitled to?
A. No, they never said the insured was going to rely on us.
Q. Well, is it your experience that the insureds rely on you to tell them what they're entitled to?
A. Some people had attorneys before we even had a chance to call them, so in those cases, no.

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Q. I'm not asking you about specific individual cases. In general, is it your understanding in what you have heard and have been taught at AAA that your insureds are primarily going to rely on the adjuster, the first person they contact with AAA, to give them the knowledge of what they're entitled to?
A. I have not been taught that they're going to have to rely on us. I believe that the expectation is to explain the benefits that they're entitled to.
Q. It wouldn't be unreasonable then for insureds to trust and then rely on statements by adjusters as to what benefits they are entitled to?
A. Right.
Q. And when it occurs that you find an underpayment at the point in time where everyone is agreeing to it, isn't it the obligation then of the adjuster to go back and find out how long it's been underpaid?
A. You have to look at each claim individually to see the circumstances to know how far back to actually go.
Q. I'm not asking about the specifics. I'm asking in general. You have now got a consensus at the table and everyone is in agreement that there's an

these claims in terms of payment specifically for attendant care?

A. No. My job is – when I became a manager was over claims – we weren't called claims reinsurance then, but it was over this reinsurance portion and the clerical staff, so my management duties were not necessarily over the adjusters.

Q. Well, were you ever in a position at AAA to make determinations as to the adequacy of payment, let's say to a family member providing family attendant care?

A. When I was an adjuster I handled my own cases and I would have looked at it. I looked at the home care payments.

Q. All right. Then when you say looked at the home care payments, would you mean that it was your job to know what the law was, to inform what the insured what the law was and to be sure they were receiving benefits consistent with Michigan no-fault law?

A. It was my duty to explain benefits to the insured and make sure that I was paying the appropriate rate, yes.

Q. All right. And how did you know what the appropriate rate was for family attendant care during

the time that you were responsible for that information and advice?

A. I would call agencies and see what they were paying their aides. I'd investigate it by talking to the doctor to see what kind of care they needed, talk to the family to see what was being done.

Q. Okay. So it was basically a three pronged process, you had to find out what care was needed and you got that basically from the doctor and the family, and then you would go to agencies that provide that care and you would figure out what the rate was that they were paying their workers for like care; is that right?

A. Yes.

Q. And then you would advise the family that that's the rate that they were entitled to?

A. Yes.

Q. And then you would pay that rate?

A. Yes.

Q. All right. And then you would review that at six month intervals to be sure that the rate was being paid appropriately?

A. As you were handling your file you would review it as there was material changes or if there was any other – you know, based on the need of the

insured, if things had changed.

Q. Well, what about in some of these cases that are going on for 10 or 15 years and you looked at the rate in 1978 and it's now 1988, you wouldn't – the rate that the agency is paying its workers has gone up in a 10 year period generally, wouldn't it?

A. Yes.

Q. So part of your job is to make sure that that rate is increased as time goes on; would that be fair to say?

A. Yes, but you wouldn't just consider the rate going up, you would still have to continue with your investigation of what all the needs were, if there had been any other changes on the case.

Q. Yeah, you would do the same thing you did in the beginning. You'd look at what the needs were by talking to the family and the doctor and then you would go to the aide agencies and find out what they're paying their people. It's the same process, it's just that you're doing it over and over again?

A. Is that a question?

Q. Yeah, question mark.

A. You would continue to investigate it any time you would make any kind of changes.

Q. But the investigation would be the same as

the initial investigation, it's just an update, what are the needs and what are the agencies paying their employees for like services?

A. Yes.

Q. And the concept always has been that AAA pays – strike that.

The concept always has been that AAA doesn't take advantage of family members providing services, the family members are entitled to the same pay that an agency employee receives?

A. AAA would not take advantage of their insureds.

Q. That wouldn't be right?

A. No.

Q. So to answer my question, though, what that means in your mind is that the family member would always be paid what the agency employees get paid; in other words, they shouldn't get any less than an arm's length employee of an agency for the same service?

A. Yes.

Q. All right. And that's always been AAA's position since you've been here?

A. It's always been one of the things we have looked at, yes.

Q. Well, is it your understanding that the

expect them to rely on everything you tell them about their benefits, correct?
A Yes.
Q And once you start that relationship of trust, has AAA told you you can discontinue it?
A No.
Q Has AAA told you that once you get them into this

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relationship of trust where they rely on what you tell them, that you should then tell them, by the way for some of these benefits you need to go get a lawyer?
A No.
Q Has AAA told you that the purpose in your training that the purpose of establishing the No-Fault Act was to do away with the adversarial process of having lawyer and an insurance company fighting over these benefits?
A No.
Q That they were supposed to be paid through No-Fault, whether it was your fault in the accident or someone else's, that you would go to your own insurance company and you should trust them, did they tell you that?
MR. VANTONGEREN: Object, assumes facts not in evidence.
THE WITNESS: I don't know that.
BY MR. MCKENNA:
Q Is it your goal, has it been your goal as an adjuster to get all of your insureds to trust you?
A Yes.
Q And in that confidence of trust, that special

0074

relationship that you create with them, you then inform them of what benefits you believe they're entitled to?
A Yes.
Q And in that role of trust and confidence building between you and the insured, you don't expect them to go get a lawyer, do you?
A No.
Q You want them to rely on you whether you are right or you're wrong?
MR. VANTONGEREN: Object to the form of the question, it seems vague. She hasn't indicated that she offers legal opinions.
MR. MCKENNA: Neither have I.
MR. VANTONGEREN: You're suggesting it.
MR. MCKENNA: No.
BY MR. MCKENNA:
Q You want them to rely on your representation of their entitlement to benefits or claims, whether you're right or wrong, don't you?
Is that a yes?
A Yes.
Q In addition to room and board benefits, are you familiar with guardianship benefits?

0075

MR. VANTONGEREN: Could you be more specific?
BY MR. MCKENNA:
Q Are you familiar with the fact that AAA would have to pay for guardianship fees?
A Yes.
Q Are you familiar with the fact that AAA would have

telling them because you didn't know or AAA not telling them because they gave somebody a file that didn't know what they were doing, correct?"

BY MR. MCKENNA:

Q That's unreasonable?

A I guess I don't like that saying that I didn't know what I was doing. I knew what I was doing, but didn't know about a specific benefit.

Q Well, you knew what you were doing to the level of your knowledge?

A Yes.

Q But not knowing all of the benefits, would have you doing a job that you didn't know all of what you were doing?

A No, I did not know all of the benefits available.

Q And that would be unreasonable, wouldn't it, to not tell somebody because of your lack of knowledge or AAA's decision not to inform you?

A Yes.

0071

Q Correct?

A Yes.

Q Now, with respect to your insureds, you create a relationship with them when you handle a file, don't you?

A Yes.

Q You foster a relationship of trust and confidence with them, don't you?

A Try to.

Q I mean from the beginning that is what you were trying to establish, correct?

A Correct.

Q You want them to rely on you, correct?

A Yes.

Q You don't tell them you need to get a lawyer to explain to you these benefits, you don't say that?

A No.

Q You want to foster a relationship where the insured gets in an accident, where the family of the insureds that's been involved in the accident can trust and rely upon you as the claims representative to inform them of all of their benefits, correct?

A Correct.

Q That is the goal that you have been taught to

0072

establish by AAA with your insureds and their families, correct?

A Correct.

Q Not one where they distrust you or the company and go hire a lawyer, correct?

A Correct.

Q So you don't tell them, we will not tell you all of the benefits that you're entitled to, do you?

MR. VANTONGEREN: Object to the form of the question.

BY MR. MCKENNA:

Q You don't tell them that, do you?

A No.

Q You expect them to establish a friendly relationship, a trusting relationship with you, correct?

A Correct.

Q And then because of that trusting relationship you

THE WITNESS: No.
BY MR. MCKENNA:
Q Do you ever tell an insured, I'm going to tell you something, this is the company's policy, I don't agree with it, you should get a lawyer?
A No.
Q Did you ever tell them, I'm not allowed to tell you what all of your benefits and claims are, you

0055

should get a lawyer?
A No.
Q Do you ever tell them you should get a lawyer?
A No.
Q Do you ever tell an insured, I know more about the No-Fault Act than you do and your claims, I can't tell you everything, you should get a lawyer?
A No.
Q Now, you were taught by AAA to interpret the AAA policy, correct?
A Yes.
Q Now, are you familiar in the policy where it says if you are injured arising out of the use, operation or maintenance of a motor vehicle we will pay, are you familiar with that part of the policy?
A Yes.
Q And then it lists things that we will pay, medical benefits, replacement services and wage loss, correct?
A Yes.
Q But it doesn't specify in the policy what all of the medical benefits are, does it?
A No.
Q That is where when the insured gets in an

0056

accident, okay, and they have a AAA policy, until they get in an accident, you as the claims adjuster don't have any responsibility to tell them what their benefits are, do you, in other words the accident has to happen first before you have an obligation to do anything, correct?
MR. VANTONGEREN: I object.
THE WITNESS: Yes.
MR. VANTONGEREN: It misstates the law as to whether she had an obligation to tell all the benefits.
MR. MCKENNA: I'd haven't gotten there.
BY MR. MCKENNA:
Q Your policy on what you were trained, is that once this condition -- do you know what a condition precedent is?
A No.
Q A condition that occurs first. There's a condition that has to occur first before AAA has to pay any benefits, correct?
A Yes, an accident.
Q An accident involving the use, operation or maintenance of a motor vehicle as a motor vehicle?
A As a motor vehicle.

0057

Q Right?
A Right.
Q And the policy has to be paid or in effect, right?
A Correct.
Q Or a priority issue, someone living in a household with a relative?

BY MR. MCKENNA:
Q Go ahead.
A Okay, I'm sorry, would you repeat the question?
Q Would you agree that your insureds rely on your representations to them of what claims and benefits they're entitled to make?
A Yes.
Q Would you agree that you know that when you tell them what claims and benefits they're entitled to make, that when you tell them that they should reasonably rely upon your representations?
MR. VANTONGEREN: Same objection.
THE WITNESS: Yes.
BY MR. MCKENNA:
Q Do you ever tell an insured when you inform them of entitlement to a benefit or not being entitled to a benefit that they shouldn't trust you?
A No.
Q You wouldn't, for example, say I'm not going to pay this benefit, but don't trust a thing I say, go get a lawyer. You would never say that to them, would you?

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A No.
Q You would expect them based on what you're telling them to rely on your representation, correct?
A Correct.
Q So when AAA tells an insured through its adjuster, these are all of the benefits that you were entitled to, that insured or that insured's family should reasonably expect to rely on that information as being accurate and truthful?
A Yes.
MR. VANTONGEREN: Same objection.
BY MR. MCKENNA:
Q And you have been trained by AAA as a claim representative that AAA understands that when you tell the insureds things, they will rely on your representation, you've been taught that?
MR. VANTONGEREN: Objection as to the vagueness on representation. There hasn't been any showing that she's represented herself as any kind of an expert.
MR. MCKENNA: Ma'am, let me rephrase the question.
THE WITNESS: All right.
BY MR. MCKENNA:

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Q You have conversations with insureds on new files from day one, transferred files, correct?
A Correct.
Q Those conversations you have with them, you expect that insured to listen to what you're saying and trust you?
A Yes.
Q Do you intentionally lie to insureds?
A No.
Q Do you expect an insured to believe that what you're saying is not truthful?
A No.
Q Do you ever tell an insured that I'm telling you this, but it's a load of crap and you should get a lawyer?
MR. VANTONGEREN: Object to the form of the question.

and you didn't pay them, that's your fault, correct?
A Yes.
Q It's also their fault if they don't catch you not paying benefits by supervising and reviewing files, correct?
A Correct.
Q But when AAA intentionally does not tell you about a benefit that is available, who's fault is that?
MR. VANTONGEREN: Same objection, it assumes facts not in evidence.
THE WITNESS: I would say AAA.

BY MR. MCKENNA:
Q Now, AAA you said would send you materials from the Court of Appeals, Supreme Court, changes in the law on a frequent basis, whenever that occurred they'd send that stuff to you as part of your continuing education, correct?
A Yes.
Q And you would have known whether you had been given information on the room and board, because that's something that would directly impact your job, correct?
A Yes.
Q And you were never given anything from AAA up through 2002 on room and board?
A Not that I recall, no.
Q And after 2002, did AAA give you anything as far as continuing education materials on room and board benefits?
A Not that I recall, no.
Q So you had this conversation in 2002 with somebody from MMU. You didn't follow-up on that and get educated on what room and board benefits were; is that correct?
A Correct.
Q And since leaving Franklin, you've gone back to adjusting files?
A Yes.
Q Have you ever paid room and board on a claim?
A No.
Q Even to today?
A Correct.
Q Are you aware that in order to collect room and board there are certain tests or thresholds that have to be met?
A No.
Q So if a catastrophic injured plaintiff was entitled to make a room and board benefit claim and you were handling that claim, you did not inform them of their entitlement to that benefit?
A No.
Q Now, given what you're telling me that you didn't know and you work for AAA and you've been trained by AAA on the policy and the No-Fault Act, would you have expected your insureds to have known of the existence of that benefit without you telling them?
A No.
Q Would you agree that your insureds rely on your representations as their claims adjuster as to what benefits and claims they're entitled to make?
MR. VANTONGEREN: Objection form of the question, it calls for speculation.

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made incremental changes.
Q But you don't now whether it was because someone specifically asked for that?
A I don't know.
Q The policy I'm asking about is the one don't ask, don't tell that Mr. Berkebile and Mr. Herman told you about, correct?
A Correct.
Q So what I'm saying to you that policy if they don't specifically ask, you don't specifically tell, to your knowledge that was the policy for AAA for people like yourself in reserves as well as adjusters, correct?
A If that's what I was told. I don't know what they told anybody else.
Q And to your knowledge has that policy or that procedure ever changed?
A I don't know.
Q To your knowledge it hasn't changed?
A To my knowledge it hasn't.
Q And you've never received anything in writing, seen a memorandum, seen anything indicating that there's been a change in that policy with AAA?
A Correct.
Q Now, this don't ask, don't tell policy, affects

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all of the benefits that an insured would be entitled to, doesn't it?
A That's the only instance I was ever told not to tell anybody anything.
Q From a first party standpoint, back payments of benefits would affect don't ask, don't tell, would affect every type of benefit, whether you saw that it was the hypothetical we have is underpayment of attendant care, correct?
A Correct.
Q You're aware that there are other first party benefits that AAA would owe to an insured?
A Correct.
Q Medical mileage, replacement services, wage loss, a sundry of things, correct?
A Correct.
Q That policy would apply to all of those benefits if they didn't ask, don't tell, about back payment, correct?
A I don't know. I never asked about anything else.
Q So the only thing you ever asked about was the attendant care?
A Correct.
Q What about room and board, do you set reserves based on future room and board payments?

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A If somebody's paying room and board I do.
Q Well, what if they're ordered to pay room and board, do you set reserves based on that?
A What do you mean ordered to pay?
Q You know what litigation is?
A Yes.
Q I've got different records here from you where you indicate that you're aware there's litigation pending, correct, and you make adjustments to reserves based on orders in the litigation, correct?
A Correct.
Q Now, room and board if it's ordered to be paid, in a case where it wasn't being paid, does that mean you change the reserves?
A Yes.
Q In this particular case are you aware -- strike that.

Are you still handling this file?

A I'm still doing the reserving on it, yes.
Q Have you been given a copy of the court's order regarding payment of room and board benefits on this file?
A No.

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Q Why not?

MS. KULIK: Objection, calls for speculation.

THE WITNESS: That's not something I normally get.

BY MR. MCKENNA:
Q Well, in a litigation file you need to know what the court has ordered to be paid, don't you?
A The attorneys would let me know what they need in reserve.
Q But you should have if the court has ordered a benefit to be paid, a back benefit, in fact, to be paid in order to set reserves properly, you should have that information?
A Yes, I wouldn't necessarily need to see it myself.
Q You would need to know it was ordered?
A I would need to know.
Q Did anybody ever tell you that room and board benefits were ordered on this file?
A No.
Q So you wouldn't be able to set reserves correctly without that information?
A Counsel has given me a figure that they wanted reserved, so.
Q I didn't ask you that.

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Is that part of what you reviewed this morning?
A Yes.
Q And that was a question you understood?
A Yes.
Q And the answer was truthful?
A I was answering truthfully at the time. I'm not so sure it was correct.
Q Was the answer truthful?
A It was what I felt to be the truth.
Q And then to explain what you felt to be the truth, you were asked the question, quote, "And who's position was that?

Answer: I was told that by management and MMU."
A Correct.
Q And then to be even more certain of what you knew to be the truth, you identified Mr. Herman and Mr. Berkebile as the people at MMU that told you that?
A Correct.

MS. KULIK: What page are you on, Counsel?

MR. MCKENNA: That's 44.
BY MR. MCKENNA:

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Q And those were all questions you understood?
A Yes.
Q Those were all questions you answered honestly and truthfully?
A Yes.
Q By the way, have you given a deposition since this deposition?
A Yes.
Q And has anyone else asked you about this transcript?
A No.
Q Now, when did Mr. Berkebile and Mr. Herman supervise you at MMU, what time period?
A I worked for Mr. Berkebile when I came to the unit in September of '97, and I believe Betty Robins took over as my manager in December of '97.
Q Okay. What about Mr. Herman?
A I never worked directly for Mr. Herman.
Q Okay. Was he a manager or a supervisor at MMU?
A He was a manager at MMU.
Q And I take it if he told you to do something, you would do what he told you to do?
A Yes.
Q And if Mr. Berkebile told you to do something, you would do what they told you to do?

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A Yes.
Q I take it in your position you can have from what we've talked about here on Marr so far without even getting to Bearden, you have contact with adjusters and you can tell them what the position of MMU is?
A I don't do that now, but at that time I did, if it was something I was familiar with.
Q Well, for example, I've seen some e-mails, wizard e-mails or writings from you on the Marr file, correct?
A Yes.
Q They're attached as Exhibits?
A Yes.
Q And that's you communicating with adjusters, telling them what MMU says to pay?
A Yes.
Q Are you familiar with a study that was done, a survey or a -- what do they call it?

MS. KULIK: By Plante Moran?
BY MR. MCKENNA:
Q An audit that was performed by MMU, where they sent people to every branch to review catastrophic claims?
A It wasn't an audit. They were called a branch

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intervention meeting.

Is that what you're referring to?
Q Yes.

Do you recall MMU sending MMU people out and meeting with the branches, every branch in the State of Michigan to review or go over catastrophic claims?
A Yes.
Q And who's idea was that?
A I don't know.
Q Do you know when that first occurred?
A No.
Q Do you remember whether it was in the '90s or 2000?
A It was -- I got there in September of '97, and they were doing it at that time.
Q Do you recall if they did it again after September of 2000, or I'm sorry, you said September of '97?
A Yes.
Q Do you remember if they did it again after September of '97?
A Yes.
Q Do you remember if they've done it more than --

MS. KULIK: I'm going to

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A Yes.
Q And if you didn't say I don't understand, you would have answered because you understood?
A I think I answered because I thought I understood.
Q Well, at the time you gave an answer --
A I felt I understood.
Q -- you thought you understood the question; is that correct?
A Correct.
Q Do you know where the question is that you're talking about in the deposition?
A It was towards the beginning.
Wait, let me go back. Would you ask that question again?
Q She can read it back to you.
(QUESTION READ BACK)
THE WITNESS: Okay, I'm assuming you're referring to the remark about the back home care?
MR. MCKENNA: You said something about not going back, so I'm going to try to look up not going back.
BY MR. MCKENNA:
Q Do you know who Mrs. Betty --
A Betty Glynn (sp).

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Q -- as it relates to this transcript that you handed me?
A She was an adjuster.
Q Okay. Did you have conversations with Betty regarding this file, the Marr's file?
A I think -- I don't think I had a conversation with her, I sent her an e-mail.
Q I'm sorry, did you communicate with her regarding this file?
A Yes.
Q Is the e-mail attached as Exhibit 1?
A I don't know. I didn't look through that.
Q You didn't look at the attachments?
A No
Q Because it says here in Exhibit 1, it's a wizard mail and it says, "Hi, Betty," that's from you?
A Okay.
Q Is that correct?
A Yes.
Q It says, "We're currently paying 130 a day and appears this is twenty-four hour care. Based on our latest survey we're now authorizing $8.00 an hour for regular home care. It would probably be a good idea to write to Doctor Pearlman and have him confirm the number of hours."

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Did you ever advise Betty to pay more money than what she was paying?
A I told her what the current rate was.
Q So you obviously knew at the time what the rate Betty was paying, correct?
A I don't know.
Q Well, at the time that you would have been handling this file, setting reserves, you need to know what is being paid, don't you?
A Well, ideally. I don't always know what's being paid.
Q As part of your job you're supposed to know what is being paid in order to figure out reserves, aren't you?
A Not necessarily.
Q What if they were paying $400.00 an hour wouldn't you need to know that?
A Well, sometimes I just base it on the past history.
Q My question was, if they were paying $400.00 an hour for home care, you would need to know that, wouldn't you?
A It would be good to know that.
Q In order to set a reserve?
A That would be helpful.

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Q Okay. Now, from what I can see in this transcript it appears that you have sent some e-mails or some communications anyway in writing to this adjuster, Betty, and some others.
And the question in the transcript was, did you tell Betty that she owed Mrs. Marr back pay since she had not been raised to the present rate. And the answer was, "Answered: No, I did not."
Is that what you were talking about?
A Yes.
Q And that was a truthful answer and you understood that question?
A Yes.
Q All right. Do you know who Mr. Berkebile and Mr. Herman are?
A Yes, I do.
Q And they were management at MMU at the time?
A Yes.
Q And according to your answer here, "Question: Why not?
Answer: Because it was the position that we didn't pursue back payments unless it was requested."

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THE WITNESS: You're asking me have I sent any e-mails since --

BY MR. MCKENNA:

Q You sent an e-mail to an adjuster about an underpayment since you were told by Patricia Robins not to send them anymore?

A No.

Q Even if they were being underpaid, you haven't sent another e-mail to an adjuster, correct?

A I don't recall seeing anything like that, but correct.

Q The earlier policy that Mr. Berkebile and/or Mr. Herman told you about was the don't ask don't tell?

A Correct.

Q Correct. And now it's don't tell don't tell?

MS. KULIK: I'm going to object to the form of the question.

BY MR. MCKENNA:

Q Correct?

A As far as I'm concerned?

Q Yes.

A That's correct. I don't get involved in it now.

Q Who at AAA, to your knowledge, is involved in insuring if it's not part of your job duty

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anymore, that the adjusters are paying the appropriate rates for services provided?

I believe it would be the branch manager.

Now, when you came to AAA in your reserve specialist capacity in '97, I think you said that there was a study, an intervention I think is what you called it, that was either underway or just getting started, correct?

Correct.

And then there was another one in 2001?

There was another one sometime between I think it was before 2001.

Was it close to 2000, was it in the 2000s, was it in the 1990s?

It might have been '99 or 2000, I don't know.

But there were two of them?

Correct.

And I took the depositions of Mr. Berkebile and Mr. Herman about why it was AAA was doing this, what you call an intervention, and they indicated to me that the reason was because there were branch offices that were handling as maintenance files catastrophic cases and that they were noticing problems in the rates that were being paid.

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Did they ever discuss that rationale with you as to why these interventions were being done?

A No.

Q You were part of some of these interventions at different branch offices, correct?

A Correct.

Q In fact, you've even -- and I don't know the correct term, you've presented cases to the CAT fund committee on behalf of adjusters?

A I don't think I ever presented anything to the CAT loss committee. I think I took a case to a home care committee for an adjuster.

Q Do you recall testifying that you had handled cases to the CAT loss committee?

A No, I don't.

Q On page 62 of your deposition you were asked a question, "Ma'am, why would you as a reserve claim specialist presenting a file to the home care committee?"

So you've done it with a home care, but you haven't presented a file to the CAT loss?

A Correct.

Q But you have participated in CAT loss committee

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meetings?

A I have attended, yes.

Q Why would a person as you described your job duties that just set reserves go to a CAT loss committee?

A My boss asked us each reserve specialist to attend three meetings a year.

Q Why?

MS. KULIK: Objection, you're asking for speculation.

MR. MCKENNA: No, I'm not. I'm asking her what she knows.

THE WITNESS: I'm assuming she just wants us to keep current on issues.

BY MR. MCKENNA:

Q What issues?

A Issues that would be discussed at the CAT loss meeting.

Q But those issues being discussed at CAT loss committee would have nothing to do it with what you're doing as your job, would they?

A Not really. The only instance --

Q It doesn't make much sense, does it?

A No.

MS. KULIK: Objection, you're

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benchmark for setting rates?
A No.
Q Did they ever tell you that it was a statistically significant objective study to determine all rates for attendant care?
A No.
Q Did they say you have to use the rates in this survey?
A No.
Q So it was never intended to be used by you?
MS. KULIK: Objection, you're asking her to speculate. Sorry.
BY MR. MCKENNA:
Q It was never intended to be used by you in your capacity in setting reserves to be the benchmark, the tool for setting rates; is that correct?
A Correct.
Q And if I'm understanding you correctly, what you have for determining rates is somebody from MMU tells you what the rates are?
A That was how they used to do it before the Plante Moran survey.
Q Now, after the Plante Moran survey, how do you find out what the current rates are?
A I haven't followed up.

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The Plate Moran survey was done when?
It was presented --
2001?
-- 2001.
All right. When it was done you don't know?
I don't know.
Just when you got it, it was 2001?
Correct.
Since 2001, how do you know what rates MMU says to pay?
They did an updated Plante Moran survey, but I don't really know what MMU paid.
I didn't ask you any of that. I asked you a very simple question.
Since 2001, how do you know what rates to pay?
I don't.
You send these e-mails we've talked about before indicating that when you looked at a file and you see that the same rate has been paid for a year, that you would advise them of what MMU is currently authorizing?
I haven't done it since they did the home care survey in 2001.
So since 2001 you have not advised any adjusters

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of underpayment?
A Correct.
Q Did somebody from AAA, before we talked about Mr. Berkebile and Dick Herman telling you the don't ask don't tell policy, correct?
A Correct.
Q Since 2001 has anyone else at AAA told you to stop sending these e-mails?
A I think I discussed it with Patty and it was felt that everyone in the company had been trained, so they didn't feel it was necessary anymore.
Q When did you speak to Patricia Robins and she told you to stop sending e-mails?
A I believe we talked about it in October when the training was done. I think it was completed in November for everybody.
Q So since 2001, you haven't sent memos?
A No, I haven't.
Q Even though you've seen -- strike that.
If you see a file that you're reviewing that pays the same amount year after year you still don't send memos?
A I don't think I've seen anything like that.
If I see a file that I think something isn't right on, I refer it to a manager.

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Q So you do that by e-mail as well?
A Yes.
Q And those e-mails, of course, are destroyed just like the other ones we talked about?
A I don't know.
Q Well, your destroy yours?
A I delete mind, yes.
Q You have been reviewing this file, the Bearden file since when?
A '98.
Q '98. And your file that you have, would you be able to tell what rate was being paid to the Bearden family on an hourly basis?
A No.
Q Why not?
A I was never able to determine that.
Q You were never able to determine the hourly rate the Beardens were being compensated?
A That's right.
Q Well, if you weren't able to determine the hourly rate that they were being compensated, you wouldn't be able to tell what the reserves should be, would you?
A I reserved this claim based on the past history.
Q Could you answer my question?

exposure of the company, and in the Bearden case it would be an actual exposure of the company, wouldn't it, because there's no catastrophic claims fund? Well, there is an employer reserve reinsurer, it's just not the MCCA, but you're right, it's a different formula.

All right. So if you're looking only to the future, then my question would be the same only a little different.

Now hypothetically you've looked at an old file where you've made the determination that there was an underpayment and that you had to significantly increase the reserves to cover the potential future exposure?

Yes.

In every case was the family notified or was it a hypothetical potential future cost? Do you understand my question?

I understand your question, and I don't know about every case. I don't know that. I mean there are literally hundreds of cases, I don't know. But I'm trying to get again is the global feel for this.

Because you raised the reserve on a file for potential future exposure, does that mean that

the potential future exposure is going to reflect the actual payout?

A. It should.

MS. KULIK: I think what she pacified to is after they would consult with an adjuster on a file and make recommendations, if the rate was raised, the daily rate at that point, that would then be conveyed to the -- at that time the people who dealt with the reserves were in medical management as a separate unit now and they would then raise the rates. They weren't raised as a result of --

THE WITNESS: Just a review.

MS. KULIK: -- the meeting with the adjuster and reviewing the file.

BY MR. GARVEY:

Q. So what you're saying is that if the reserves were raised, they were only raised in connection with an actual financial obligation and actual payout, as opposed to an anticipated hypothetical payout, in other words -- okay, go ahead.

A. No, I'm just going to say in most cases that would be it. But it could be a hypothetical, also assuming that the adjuster is going to be making an adjustment.

Q. Okay. So you answered my question. You admit that the following scenario could develop, medical management

ght look at a file and say, these people are getting id eight, they probably should be paid fifteen, based your view of it, we're going to raise the reserves gnificantly, we're going to double the reserves, 's say, but that the person, the family members 't eventually get that money, that's possible, in er words the raising of a reserve can represent ure possible exposure and not actual exposure?

can, yes.

right. Do we know in the Bearden case whether re was ever an increase in reserve?

n't know that.

would have been after you left?

uld have been before.

., no, because you were there.

t, it could have been before.

me ask you this, was this one of the files that ma went back and looked at?

ably, it should have been one that was looked at.

hat notes would I look for, would they be mers' notes, would they be medical management ?

uld be adjuster notes. I don't know.

as I understand the process, it came from above.

I ask you, maybe I didn't establish this.

Where did the directive come from for you folks to go to the branches and look at these older files, was that your idea?

A. It wasn't. No, it wasn't my idea.

Q. Somebody recognized the possible future exposure to these old claims; is that right?

A. Yes, that's correct.

Q. And that somebody was above you?

A. Right. I don't know that. Liz said this is something you should do. There were questions from the branches, because these are very heavy duty cases that the adjusters are handling, whether it just evolved from questions from the branches, litigation, our management, something legal.

Q. I understand how all those little skirmishes could start. But what I'm after is the decision to do this, the decision to go back and revisit these old files at the branch level by someone from your unit didn't come from you, it came from someone above you?

A. I think we offered to do that. I think our unit offered to do that, to go out and talk to the adjusters.

Q. All right. You said that at some point there was a realization that there might be a large exposure out there, and that it was at that time that you started

number?

A. Yes.

Q. And other than just passing that back down to the branch managers, are you saying it didn't go beyond you, like that information didn't go higher up into the corporate structure like, hey, this could be a potentially huge number and what are we going to do about it?

Right. What would happen if we knew it was a potentially large number?

It would be, wouldn't it?

It would be a large number. We'd have to do a filing with our reinsurers because they have to know that also.

So is it your sense that there was a massive filing with your reinsurers raising the reserves on these files?

Massive, I don't know if it was massive, but certainly as they came up we would notify them. We would do a new filing with them. And our financial area would be alerted. It would go across -- usually that report would go across my desk. Reserves over a certain dollar value would have to have approval by at that time my boss?

Who was that?

A. Liz Hagemeister.

Q. Let me ask you something else. Just because a file, these attendant care files, these old attendant care files involving family members taking care of catastrophically brain injured people, just because those files had their reserves raised significantly, doesn't necessarily mean that the family members were informed of that? Question mark. You wouldn't tell a family member that you doubled the reserve because the rates looked a little low?

MS. KULIK: I'm going to object. Your question is based on the assumption that the reserves were raised because they've been underpaid, as opposed to the reserves were raised because the current rate was being raised and the projected payment over time was going to be more.

MR. GARVEY: I don't see a difference, maybe I'm missing something.

BY MR. GARVEY:

Q. I mean I thought we had agreed that because of this you called it an evolutionary process and an enlightened process on the part of the adjusters and yourself, that you realized that some of these family attendant care people had been underpaid?

A. Yes.

right. And that was the reason that you in the s '90s that there was a push to go back and look at old files?

it.

so my question is now, I assume that in a number of s, a large number of cases, the reserves had to be sed?

And we increased the reserves and we began to ase the payments to the families.

So are you saying that in every case that you l at where you felt that there was a possible exposure that was larger than you had pared because of this evolutionary enlightenment, se raises were actually raised?

on't know that. As they were raised, that's did our filing with our reinsurer and increased erves.

saying is, what was raised, your estimates of ht have to be paid in the past and in the what was actually paid? Do you see what I'm

Let's say you pick up a file like

k back at it and you say, these people are

getting paid $5.00 an hour for ten years and then they were paid $8.00, just hypothetically, they were paid $8.00 an hour for ten years, agency rates are $21.00 an hour and they never got any cost of living raises on that. We might owe them a large sum of money in the past, and if we have to raise them up to $21.00 hypothetically, that's a big future exposure that we haven't counted on.

So how would the question one, how would that hypothetical situation assuming it happened, affect the reserve; i.e. the past?

Let's say you owe them $2,000,000.00, $3,000,000.00 underpayment for past benefits, does that raise the reserve on a file?

A. We were looking at the future, future reserves.

Q. So you weren't looking at the past?

A. No.

Q. In the insurance business, let's say you look at a file like Saarden and it turns out you may owe them $3,000,000.00 in the past, doesn't that raise the reserves or is that only a future issue?

A. We were looking at the future issues.

Q. You weren't looking at the past?

A. Right.

Q. Now, if you're looking only at the

of old files going back to the '70s, what's our exposure on these files as time goes on?

MS. KULIK: You might want to define exposure as past or future exposure?

MR. GARVEY: Yes, both.

THE WITNESS: Yes, it was to look at our exposure, certainly.

MR. GARVEY:

Okay. Now that we know that there were perhaps two purposes, one of them certainly was to look at your future exposure, especially on the old cases, was there any focus on cases that were pre-catastrophic claims files like the Beardon case where AAA's annual dollars are going to be spent?

Yes, yes.

Okay. All right. Now, the next question is, are you aware of whether or not after all these files were looked at and these are pre-catastrophic claims files as well as post-catastrophic claims files, was there any effort to notify these people that there may have been underpayment?

I don't know that.

If that happened, that happened after you left?

Excuse me, what happened is to say these are branch files, so we would give the recommendation to the

adjuster or the manager for the follow-up. But we weren't aware -- although, we would probably know if they were going to increase the attendant care because that would increase our exposure for our filing with our reinsurer.

Q. Would those records be kept anywhere, can I go to a record and find out for example in the year 1997 how many files, how many files experienced a drastic increase in reserve?

A. Gosh, I don't know. I mean that might -- what would be the reason for the increase in the reserve?

Q. Underpayment of attendant care.

A. Right. Would our financial area have that? I mean I don't really know.

Q. Would there be any records kept in terms of how many people, family members who are taking care of catastrophic brain injured people or catastrophic physically injured people, were informed that they may have been historically underpaid?

A. No.

Q. All right. And you're not aware of any program that was developed to attempt to notify these people?

A. No.

Q. All right. Are you familiar with the Manlay decision that involved AAA?

know it involved AAA, and I believe it was about
ttendant care in the home and I can't tell you too
ch more about it.

d the Supreme Court even use the word sitter care as
definition of what care they were looking at in that
se?

on't know.

y. Is it your sense that it dealt with unskilled
ervisory care?

do you know the date that the Court of Appeals
lay case came down?

ou know the date that the trial court -- do you
that it involved -- you said you understood that
nvolved supervisory care.

Do you know that the rate was $8.00
ur that the trial court awarded in that case?
't know what the rate was, no.
I know the year that the trial court first
ed --

00 an hour for sitter care?

nless when you were handling the file, what were

the Beardens being paid?

A. I'd have to look. I don't know. I don't know if this is the payment file or not.

MS. KULIK: Do you need the payment file?

BY MR. GARVEY:

Q. What did they do with all that information that they gathered when they went to the branches and they -- we got to the point that we agree that one of the main reasons they were doing this; i.e. going to the branches and looking at these old cases, was to figure our future exposure.

What did they do with that information, do you know?

A. It was passed on to the managers normally for follow-up.

Q. To you?

A. To the managers of the branch offices, these are branch adjusters. We'd say on this specific file, recommendations to get current medical information to see if the needs are still the same.

Q. But I mean, I'm trying to go up the corporate --

A. Right.

Q. I mean this idea of what your future exposure was, that would seem to me that that could be a very large

Yes.

Certainly if it came up, you would look at your claim certainly to see if you overpaid a claim.

And then you would pursue that, you would collect that, that would be part of your job?

Yes.

Okay. All right. That's kind of a nice segue into what we were talking about today, before I switched gears on you, and that was that as time went on there was an evolution in terms of paying family members in certain circumstances agency rates that the agency charges and we were talking about the fact that you or others within your unit would go to the branches and look at files with an idea towards discovering whether perhaps you may have underpaid a claimant?

Right.

All right. And I think we talked about the fact that -- well, what brought your attention to these files? All, as I said sometimes it would be a phone call from adjuster. Sometimes it would be a family asking for ore money. And we were just seeing this evolution as explained to you before that some of these claims oked to be -- the families weren't being compensated ough for the level of injury.

ay. Would you agree that when a lawyer got involved

in the case that that would get your attention, when a lawyer -- when a lawsuit was filed or you received a letter from a lawyer saying we think you've underpaid this person, that that would focus attention on that file?

A. That would not be a reason for us to go out and look at a file, if that's what you're asking.

Q. Why not?

A. Because we were doing it just generally anyway trying to look at all the files. It wasn't based on there's a call from an attorney.

Q. Was there ever a study performed by you at any point in time where the focus was, hey, this issue of underpayment of attendant care is becoming a big issue, we would like to know what our exposure might be, let's go look at all these old files and see what we may be looking at in the future, did that happen?

A. You said was there a study done?

Q. Yes.

A. We were really starting to look at all the files. There's no formalized study.

Q. What was the beginning of that, what was the genesis of that?

A. Probably some, you know, maybe lawsuits, again a review of files.

trying to find out if there was ever a
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any-wide, whether it came from just your immediate
rvisor, it came above that, where there was some
ition that this could be a very large number,
this underpayment, whether intentionally or
rtently, this underpayment issue might become a
sue and we better find out what our exposure is,
u ever get that sense?

that's why we started looking at the files.

ght. And when was that?

ying again, I'm guessing at '97 or something like

ht. And when this sense came over you and in the company and you went out and looked at es, was the purpose to locate each individual i then contact the family to say, hey, you may n underpaid, or was the focus of it, let's find our exposure might be if these files go into on?

MS. KULIK: Or was the exposure r else?

MR. GARVEY: Yes.

MS. KULIK: I'm sorry, or was the mething else? I mean there's more than those actions.

MR. GARVEY: If there were more
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than that you can answer the question.

THE WITNESS: Right. These were branch files, so we were going out and talking to the adjusters about the files, looking at them, finding out what was being paid. And mostly we were concerned about the exposure certainly. If this was a very old claim, was the amount too low. We asked them to get current medical information, what's the current rate.

Those adjusters did not work for us, so we were there to give them guidance. They had their own managers. They did not work for medical management. So we were going out to help them with direction on their claims basically and give them some recommendations.

BY MR. GARVEY:

Q. All right. But again it's more of a global question as opposed to an individual file question.

Was one of the purposes for doing this, this exercise of going back and looking at from what you said all of the old cases, was one of them separate from the idea of perhaps notifying the families and saying we've been underpaying you, and was it instead or in addition to that, hey, we got to find out what our exposure is on, you know, we got hundreds

Are you aware of the effort that was
dertaken in—you left in '92?
A: Correct.
Q: Okay. Carol Benn testified that in—and she thinks
s was about '94, it appears that this particular
: was audited in 1994. There was an
preciation by someone above her, the corporation,
it they were underpaying family members for
endant care, and they became concerned that
:re might be future exposure, so they went and
dited the files at the branch level.
Are you aware of any of that?
A: Yes. I was performing contract work for AAA at the
ie. I remember the, as I worked in different
inches, the auditors coming through and—
Q: What was the purpose of that? What was the purpose
the audit?
A: I'd have to say I remember being in the offices and
sing with auditors because I knew many of them.
:er I left I can't testify as to exactly what
:y were doing.
Q: Can you think of any, any reasonable explanation
finding a file where they admittedly could look
r and figure that the person is being
derpaid, raising the reserve because they

ngnized the fact that the person is being
lerpaid, and then not informing the family that
y're being underpaid and continue to underpay
m for seven more years?
A: Can I see any reason for that happening?
Q: Yes.
A: Any logical and fair reason?
Q: Yes.
A: No.
Q: Would you agree that—can you think of a word other
"outrageous" for that?
A: Unfair.
MS. KULIK: I'm just going to put a
inuing objection on the record to the
evancy of this witness' opinions about
tever you want to pontificate on at this
overy deposition.
MR. GARVEY: It's nice that I'm
ificating with Carol Benn.

BY MR. GARVEY:

Did you ever—can you recall ever raising any
al concerns with anyone at AAA just saying,
ou know, I don't agree with this, whether it
mendant care or the incident that you talked
with replacement services or housing or

anything like that, where you can think that
somebody gave you a response?
A: Yes.
Q: All right. Tell me about that. I mean-
A: (Interposing) Sure.
Q: Might be more than one, but I'd just like to get
some idea of what—
A: When Mr. McKenzie was my manager's manager and he
had those meetings with us, when he told us that we
were not to offer benefits but see if people
requested them, to control cost. I remember really
clearly raising my hand in that meeting and
Mr.—and I told Mr. McKenzie that what he was
asking us to do was not right.
Q: Well, and what did he say? Did he respond?
A: He did.
Q: What did he say?
A: Mr. McKenzie told me and the staff in that meeting
that, pretty close to a quote, he said we're not
talking about right and wrong, we're talking about
money, and you will do that.
Q: Did he say or what, or was it implied?
A: I think, I think he, yeah, I think there was an
implication that—it was a direct direction. I
don't know what—I can't speculate what implication

he had, but it was a direct direction, this is what
you will do.
Q: Continue not to inform people?
A: Yeah. That was Mr. McKenzie.
Q: And what was his position in the company at the
time?
A: He was the manager over John Eshnauer, who was the
manager of the Medical Management Unit, when we
were at Oakman Boulevard in Dearborn. We were—we
were sometimes told to do things that conflicted
with nursing practice.
Q: Was this after they had changed your job title?
A: Prior to.
Q: So this was while you were still under the official
title of the case manager, which you've pointed out
means that you're a patient advocate?
A: Correct.
Q: Are you familiar with current rates for different
like physical therapy, occupational therapy,
attendant care and that sort of thing?
A: I have some knowledge of it.
Q: What are the rates now for like physical therapy,
occupational therapy, recreational therapy?
Would those be fairly similar rates
or would they be different?

Was it just a general sense, or were
ere specific instances where you can think of
ere these issues became clear?
A: Both.
Q: Why don't you tell me first in general.
A: In general, as time went on with my employment,
ividual incidents seemed—it had a cumulative
fect and that contributed to a general sense that
y primary role was to help control claim costs.
Q: When did you start feeling that? If you can put
—
A: Sure, yeah. I can remember in the office on
kman Boulevard, which was the first office where
was hired, John Eshnauer (ph) was the claim
nager and at that time his manager was, I
lieve, Rod McKenzie, and we had staff meetings
th Mr. McKenzie, Mr. Eshnauer, the claim
ecialist and the nurses, and we were given some
rections which were contrary to what I thought
s fair to the patient.
Q: In terms of giving the patient the maximum benefit
benefits?
Well, let me ask you—that's kind of
ery broad question.
And you understand that your

entitled to the benefit?
A: My sense was both, and we were dealing with people
with catastrophic injuries who very obviously could
not shovel snow, take out their garbage, cook their
meals.
Q: So you were told, basically, not to volunteer the
information: if they figured it our on their own or
went to a lawyer, then you would answer their
questions honestly, but you were not to volunteer
any information?
A: That's correct.
Q: Let me just jump ahead and extrapolate on that.
Did that same issue ever come up
with attendant care, a similar issue, where they
told you, look, if they ask you for a dollar and a
half an hour, you are not to tell them that they're
entitled to market rates?
And let me just jump ahead. I want
to inform you that we've taken the deposition of
Carol Benn, and I will represent to you that
Carol Benn has testified that it was clear to her
in 1994 when this case was audited that the
Beardens were being drastically underpaid. She
didn't use the word "drastically," but I'll use the
term "drastically" underpaid; that they actually

sition as a case manager is also the position of
: Michigan Supreme Court in the Shaver's decision
ich says that the No-Fault Act is to be—is first
ll a remedial statute and that it is to be
rally construed in favor of the injured party.
You understand that that's the
nation with the No-Fault Act?
: Uh-hmm.
: Yes. And what you're saying—so can you tell me
t the specifics of what happened in that meeting
: you felt were—what was the issue that came up
: you felt compromised the duty of a case
nager to put the patient first as opposed to
its?
: Sure. There's a specific benefit, replacement
ices, which as I understand the law allows up
20 a day, and we were told by Mr. McKenzie that
were not—claim specialists and nurses working
the claim specialist, were not to
matically offer that benefit, that we were to
until the person made a claim for it.
Mr. McKenna entered the room.)
BY MR. GARVEY:
Do you mean just blanket pay the $20 a day, or do
mean just even inform the person that they were

looked at the file, determined that they were being
underpaid, raised the reserve by over a million
dollars based on that underpayment, and then
continued through today's date to pay them
six bucks an hour, which payment they've been paid
since 1985.
MS. KULIK: I'm going to object to
form and foundation.
MR. GARVEY: Is there something I
misquoted?
MS. KULIK: I don't think you're
properly characterizing it.
MR. GARVEY: What about it is
improper, other than the word "drastic"?
MS. KULIK: My objection's on the
record. You can have her answer. It's your
characterization.
MR. GARVEY: In other words, what I
said was true.
MS. KULIK: Well—
BY MR. GARVEY:
Q: Along those lines did—you've answered the
question in terms of replacement services.
Did a similar consideration arise
along the lines of what I'm suggesting in terms of

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NEUROPSYCHOLOGICAL EVALUATION
STRICTLY CONFIDENTIAL

PATIENT'S NAME:	Annie L. M. Coggins
DATE OF BIRTH:	4/29/41
DATE OF EVALUATION:	6/7/04
REFERRING PHYSICIAN:	Nancy M. DeSantis, D.O.
CONSULTING PSYCHOLOGIST:	Diane K. Klisz Karle, Ph.D.

REASON FOR EVALUATION: To assess current neuropsychological status in order to establish a base line of functioning for future monitoring.

TESTS ADMINISTERED: Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III), Cognistat, interview with patient's daughter/guardian and review of selected medical records.

HISTORY: Annie Coggins is a 63-year-old, right-handed African-American woman who sustained a severe brain injury on 7/22/78 in a motor vehicle accident. She sustained multiple traumatic injuries to the head and face. She had extensive medical and rehabilitation treatment. For a review of her medical history and treatment to date, please refer to her medical records. Ms. Coggins was at the Rehabilitation Institute in Detroit, Michigan for inpatient rehabilitation treatment during the time that this examiner was the director of Psychology Services. Ms. Coggins' current medications include Naproxin, Afeditab CR, Benazepril HCL, multi-vitamin plus iron and ASA 81 mgs.

According to her daughter, her mother's condition has remained stable for a long period of time. She still has memory difficulties. She gets frustrated and angry. She eats well. She helps with housecleaning. At some time after her injury, she was hiding food in her room. She no longer does this. Her daughter helps her talk through her depression. She spends her days working on children's activity books with her young grandchildren. Her daughter believes that she has done better since she has been around her family.

Background information on Ms. Coggins indicated that she graduated from high school and had some college classes but no advanced degree. She worked part-time as a sales person at a retail clothing store. She functioned normally before her brain injury in the 1978 motor vehicle accident.

BEHAVIORAL OBSERVATIONS: Ms. Coggins was brought to the appointment by her daughter/guardian, Tamika Coggins Johnson. Ms. Coggins was of normal appearance. Her gait posture and mannerisms were normal. She was able to use all of her extremities. She wore reading glasses to see at close range. Her speech was fluent and of normal volume and rate. She had difficulty comprehending complex instructions

PLAN AND RECOMMENDATIONS (CONT'D):

3. Annie is in need of 24-hour supervision. She has limited insight and significantly decreased problem solving. She was aware and was able to tell me that she could call 911 in the case of an emergency, but she could not give me another problem solving step which would be to leave a burning building if it was on fire.
4. Ms. Coggins should follow up with a rehabilitation physician once every year or so.
5. She should continue to follow with her internist on a regular basis.
6. Please do not hesitate to contact me if you have further questions or comments.

Thank you for the opportunity to provide an Independent Medical Evaluation on your patient, Annie Coggins.

Nancy M. DeSantis, D.O.

NMD:TTS:mcg

Dictated, not read

cc: Kathleen Metcalfe, R.N., C.C.M.
AAA Michigan

PHYSICAL EXAMINATION (CONT'D): HEENT, as above. Extraocular muscles are intact. Mild right facial weakness. Speech is slow but not dysarthric.

CHEST: Her chest is clear.

ABDOMEN: Abdomen is soft.

EXTREMITIES: There is atrophy of the right calf. There is an antalgic gait on the right with slightly wide-based gait. Her upper extremity strength is slightly reduced on the right in comparison with the left. Left being normal at 5/5, right being 4+ to 5-/5. In the right lower extremity proximal strength is 4/5 in hip flexion, hip extension, knee extension, knee flexion, ankle dorsiflexion 4-, and ankle plantar flexion 4. Deep tendon reflexes are brisker in the right lower extremity. Decreased sensation in the right arm and right leg in comparison to the left.

There is only occasional urinary incontinence and there has been only occasional fecal incontinence which is more then six months ago. Her mood has been stable. She is on no medications other then Vitamins. There is a questionable history of hypertension, but she is being followed by her internist and is not on any medications. She has had a recent glucose tolerance test due to a family history of diabetes. There have been no seizures. There are no problems with sleep. There are no problems with moodiness. Functionally Ms. Coggins does need supervision to pick out appropriate clothes to wear. She is able to put them on independently. She is able to wash herself independently and she is able to bathe herself independently with distant supervision. She does no laundry and no cooking due to safety issues. She occasionally washes the dishes under supervision and occasionally dusts around the home to try and be useful.

She does not go outside without another member of the family with her. She is aware of the safety precautions and is able to repeat them back to me. Her insight into her deficits is minimal. She is very pleasant.

IMPRESSIONS: Annie Coggins is a very pleasant 62 year old woman who was involved in a motor vehicle accident in 1978 suffering a moderate to severe traumatic brain injury with right hemiplegia. Her current deficits include mild right hemiparesis, decreased memory, decreased problem solving, and word finding deficits as well as slow processing and reduced insight and judgement. She does ambulate with a slight gait asymmetry secondary to her hemiparesis.

PLAN AND RECOMMENDATIONS:

1. Routine head CT once every one to two years to monitor any changes due to her brain injury.
2. Continue her avocational and recreational activities that she performs with her daughter. They identify things they want to learn and go together. Annie seems to tolerate this well. She does not tolerate large groups with people she does not know. I concur with this and have encouraged her to continue to do this.

Sherry L. Viola, M.D.
Randi J. Long, M.D.
Nancy M. DeSantis, D.O.

Physical Medicine and Rehabilitation

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INDEPENDENT MEDICAL EVALUATION:

RE: COGGINS, ANNIE
DATE: 05/16/03
CLAIM #: RA025824

HISTORY OF PRESENT ILLNESS: Annie Coggins arrived on time for her Independent Medical Evaluation. She was accompanied by her daughter, Tamika, and her granddaughter. She was neatly dressed and she was very cooperative with the examination. Her daughter was present but did not add additional information unless requested by myself. I had an opportunity to review Detroit Osteopathic Hospital records including a surgical report, a discharge summary, a rehabilitation discharge summary, speech and language discharge summary, occupational therapy discharge summary, a psychiatric assessment report, a neuropsychiatric day treatment report.

Annie is a 62-year-old woman who was injured July 22, 1978 at the age of 37 years when she was involved in an automobile accident. She sustained multiple traumatic injuries to the head and face. She required surgical repair of her facial injuries, tracheostomy. The patient was reportedly comatose for at least one week. The family is not aware of any other fractures in the axial skeleton or the extremities. Annie underwent a craniotomy with evacuation of subdural clot performed by Dr. Okulski on September 15, 1978. She was ultimately transferred to Southfield Rehabilitation Center on September 25, 1978 and was ultimately discharged March 23, 1979. She was seen and followed by Dr. Mary Ann Guidice and was in fact admitted to the Rehabilitation Institute of Michigan on August 2, 1983, discharged September 8, 1983. At the time of her discharge Ms. Coggins required verbal guidance for topographical orientation. She was at risk for being confused if she got out of the building and she frequently needed redirection within the building. She was noted to be apraxic and had poor memory and poor problem solving skills. She could follow one-step verbal directions and was not safe in the kitchen. She could feed herself, groom herself, dress herself, but required supervision and verbal guidance for thoroughness. She is ambulatory without any assistive device.

Ms. Coggins reports that she lives in a one-story home with her bedroom and bathroom on the first floor. The history was clarified by Ms. Coggins' daughter, Tamika, who states that she in fact lives in a two-story home with a second floor bedroom. She was able to correctly give me her date of birth, the month, the date, and the year. She knew the members of her family, but could not give me any further history regarding the nature of her own injuries. She informed me that she had fallen in a basement and that was how she injured her face. She referred to the scars on her face. I reoriented Ms. Coggins to inform her that she had in fact been involved in a motor vehicle accident and had suffered her injuries at that time. She occasionally was at a loss for words. She looked to her daughter frequently when she could not answer a question. There was some confabulation and after this was noted I would then check with her daughter for the correct answer. She was very cooperative. She could name simple objects. She could repeat simple words. She had difficulty with number repetition backwards or forwards.

PHYSICAL EXAMINATION: There are numerous scars over her face, particularly over the oral region and there is some asymmetry in the facial movements. Her tongue is midline.

individual's cognitive skills by supplying consistent orientation information, redirection, assistance with problem solving, encouragement of targeted behaviors, and cueing for safety awareness. LSTs help to provide a prosthetic and supported living environment that protects and promotes the persons optimum health and targeted wellness goals, thus minimizing the risk of psychologic complications and secondary injury or illness, which helps to ultimately lower costs by avoiding unnecessary hospitalizations and costly medical treatments. Tamika, who is Annie's guardian and primary care provider, reports that she has educated herself through the years so as to better understand the brain injury her mother has suffered and how to best handle her continued cognitive and emotional deficits. ***After her neuropsychology evaluation in June 2004 Dr. Karle reported that Annie's current living environment allowed her to function optimally and her daughter was encouraged to continue to provide her with physically and mentally challenging tasks in order to help her maintain her level of functioning for as long as possible.***

Please feel free to contact me if you have any questions regarding this evaluation or if I can be of further case management services to you or this catastrophically injured client. I recommended that she continued to be evaluated annually for her TBI rehab and attendant care needs by her PMR specialist.

Sincerely,

Renee K. LaPorte PhD, RN, CCM, CBIS, CMI-3
Sr. Disability Analyst / Managed Care Specialist

bed at about 10 PM and will sleep until about 6 AM. Because she may get up at night, they have installed alarms in the home that detect if someone is walking around so Annie will be supervised if she gets up and needs assistance. Tamika reports that she has attendant care back up as needed from her husband, her sister and her father.

ATTENDANT CARE:

Since her accident, it is documented in medical records that Annie has suffered with changes in her physical, psychomotor, and regulatory abilities; decreased cognitive and intellectual abilities; changes in her behaviors and emotional control; changes in her social affective elements; and interpersonal aberrations typically exhibited by persons with acquired brain injuries.

Brain injured persons such as Annie exhibit day-to-day problems that may include, but are not limited to: poor organizational skills and subsequent disruption in the home; disorganization in money management; apathetic attitudes towards cleanliness; procrastination regarding the initiation of tasks; self-destructive and / or apathetic behaviors; duplicitous behaviors; errors in judgment that place the person at chronic risk for re-injury; non-compliance with prescribed medication regimens or therapeutic / exercise programs; despondence and overwhelming depression resulting in apathy / amotivation; and incontinence, hygiene, dressing and feeding problems. Persons demonstrating a portion of or the entire plethora of deficits associated with the above described day-to-day activities usually ***require 24 hour supervision and / or assistance*** with their ADLs. This includes assistance and supervision of self-care, home management, personal safety oversight, community integration, and facilitation of appropriate recreational activities. Annie's medical records and an interview with her guardian daughter indicate that she has suffered with significant cognitive and emotional deficits through the years since her MVA in 1978 and that the prognosis for any significant improvement is poor. ***Her physicians have supported her needed for 24 hour a day supervision in the past and presently through this evaluation date.***

A supported living program (SLP) in the home setting is necessary to help meet the everyday challenge of individuals who exhibit cognitive / behavioral deficits and impairments, to promote their continued quality of life and to maximize their independence and dignity. SLPs provide structure, supervision and support, with an emphasis on safety and consistency. Annie's daughter reports that she has set up such an environment in her home that includes daily routines and schedules, and this seems to make Annie feel less anxious and more confident in her limited abilities.

The level of care that has been reasonable, necessary and provided for her since her accident by her family, is at the level of a ***Life Skills Trainer (LST)***, with a current value of reasonable service of ***$25.00 an hour.***

Typically, LSTs have the basic skills of a home health care aide, with additional skills and training that may include, but is not limited to, brain injury overview and understanding, behavior management, medications, seizure management, sexuality, psychosocial issues, psychiatric emergency management, family issues, and stress management. They are able to provide for the brain injured person, in the home setting, structure, supervision and physical / psychological support. LSTs are responsible for the hands-on daily care and supervision of the brain injured person. These duties include, but are not limited to, assistance with self-care, therapeutic / productive activities, home management skills, medications, transportation, and the like. The primary objective of the LST's intervention is to facilitate and enhance the brain injured

any unnecessary deterioration from the aging processing interacting with her brain injury effects. Her diagnostic impressions were: Dementia associated with traumatic encephalopathy with no current evidence of any significant behavioral disturbances. ***It was recommended that she continue with her present living arrangements as she appeared to be well taken care of and was functioning at an optimal level in her current environment. Her daughter was encouraged to continue to provide her with physically and mentally challenging tasks in order to help her maintain her level of functioning as long as possible.***

Presently, Annie continues to reside with he daughter, her son in law and her grandchildren as she has since 1994. Her daughter, Tamika reports that she has continued to remain her legal guardian since that time. Tamika reports that at the time her mother first came to live with her in 1994 she was working for a physician and she received some information from him in regards to brain injuries in general. She reports she also did self research and visited brain injury rehab centers to learn more about handling her mother's brain injury at home. Tamika reports that she eventually left her job to be at home full time with Annie. She also went for counseling in the early years so she could better understand and cope with her mother's injuries and behaviors. Annie continues to follow up with physicians, as needed. She sees Dr. Roger Harris, her internal medicine specialist for routine medical care as needed and her family dentist annually. Annie denies any pain other then an occasional headache. Annie also follows up with Dr. DeSantis annually for her brain injury and rehab needs. Tamika reports that she last saw Dr. DeSantis in May 2005 and her 24 hour a day attendant care supervision was renewed again. Her medications include Lotensin for her blood pressure, a multiple vitamin and baby ASA. Tamika reports that Annie has been physically stable over the years since coming to live with her. She reports that initially she had problems with Annie and her severe mood swings and emotional outbursts, and that is why she educated herself on brain injuries so she could better understand how to handle her mother's cognitive and emotional deficits. Through the years she has gotten Annie on a daily routine and schedule. She reports that each night they discuss the schedule of events for the following day and go through a nightly routine that includes laying out her clothes for the next day. Tamika reports that Annie is able to perform her own personal care with reminders, cueing and some back up assistance, as needed. Tamika reports that Annie is able to remember something she is told or asked to do for about 10-15 minutes and after that she has to be told again. Annie appears to have some limited insight into her deficits and is often frustrated with her inability to do the things she knew she could do prior to her MVA. Tamika reports that since coming to live with them Annie continues to have her severe mood swings but she is there to talk with her and make her feel better about her self, thus there have been no further suicide attempts. Tamika reports that she believes that Annie may have attempted to kill herself in the past while in the group home setting as she has scars on both of her wrists from apparent attempts. Tamika reports that she and the family are able to control her mood swings with a lot of emotional support and encouragement. Tamika reports that Annie's attitude about things has really improved and settled down over the years since coming to live with them. Annie wants to feel needed around the house so Tamika will work side by side with her on household projects and/or cooking a meal. She reports that they have a list of things that Annie wants to learn to do and that is what they work on each day. When Annie tells them she wants to learn to do something new then it is added to her list to be worked on. Tamika reports that she also signs up for arts and craft classes with Annie and they go do them together. Annie no longer receives any professional outpatient therapies and Dr. DeSantis feels that they are not necessary at this point. Tamika reports that Annie enjoys working in children work books and coloring with her grandchildren, which makes her feel as though she is helping out with managing the children. Tamika reports that Annie usually goes to

that Annie required some assistance and/or supervision with ADLs such as bathing, grooming, and dressing since her MVA. She was reported to be independent with feeding and ambulation. Housekeeping, grocery shopping, cooking, and laundry were all managed by her daughter, with some occasional supervised help by Annie. Driving and home safety management were provided by her daughter and family. It was reported that Annie had a rolling walker that she only used for long distance walking. ***Her daughter reported Annie was receiving 24 hour a day attendant care and supervision from her and had been her caregiver since 1994. Her daughter reported that she was presently not working so was available to provide 24 hour care/supervision.*** It was reported that Annie would occasionally attend an adult day care program for 1-2 hours at a time if her daughter had an appointment to attend. The OTR reported that no home modifications were required except the installation of grab bars in the bathtub to ensure her safety when getting in and out of the tub.

On 2/27/04 Annie followed up with Nancy DeSantis, MD, her PMR specialist. She reported she had been well with the exception of a burn she sustained from an iron that she had been told not to use by her guardian daughter. Her daughter reported that she left the room for a moment to change her clothes and her mother proceeded to try to use the iron anyways. Her daughter reported that she is aware that she must monitor her mother closely. Annie reported that she has been told by her daughter not to answer the door or go outside unless someone is with her. Current medications were reported to be Lotensin, ASA, an MVI and Calcium. Her B/P was reported to be 130/86, she was 5' tall and weighed 129 lbs. Dr. DeSantis noted facial fractures that were well healed. She also noted that Annie was impulsive and would interrupt conversations. Dr. DeSantis's impressions were that Annie had suffered a moderate to sever TBI with resultant right hemiparesis, facial lacerations and the evacuation of a subdural hemorrhage. She recommended that she undergo a neuropsychological evaluation for a baseline. ***She reported that Annie was in need of 24 hour a day attendant care, which would be life long.***

On 6/7/04 Annie underwent a neuropsychological evaluation with Diane Klisz-Karle, PhD, at the request of Dr. DeSantis, to establish a base line of functioning for future monitoring. Her current medications were reported to be Naproxin, Afeditab CR, Benazepril HCL, MVI and ASA. Annie's daughter reported that her condition had remained stable for a long period of time. She reported that Annie would get frustrated and angry and she had memory difficulties. Her daughter reported that she talks her through her depression. Annie was reported to enjoy spending her days working on children's activity books with her young grandchildren. It was reported that Annie was functioning normally before her brain injury in 1978. Dr. Karle reported that Annie had difficulty comprehending complex instructions and her responses to questions were often deficient due to obvious aphasic difficulties. Due to these difficulties she was given a low level test of neuropsychological abilities. ***Her insight was reported to vary but was generally poor***. Her mood was reported to be anxious and depressed at times. It was reported that her limited insight into her deficits was probably something that helped insulated her from emotional distress. Dr. Karle concluded that Annie, at 26 years post severe brain injury, presented with evidence of severe persistent and wide spread areas of neuropsychological deficits including basic language abilities, attentional capacity, orientation, visual-spatial perception, construction, anterograde memory and high level thinking skills including abstraction abilities, judgment and reasoning abilities. ***She reported that her deficits indicated extensive bilateral and diffuse impairment of the functioning of both cerebral hemispheres.*** Dr. Karle reported that the most positive finding was evidence of good coping skills given the severity of her deficits. ***It was reported that her prognosis for any further significant recovery of functioning was poor but it was important to take steps to prevent***

did not go outside of her home with out someone being with her. ***Annie was aware of these safety precautions but her insight into her deficits was reported to be minimal. Dr. DeSantis reported that her current deficits were mild right hemiparesis, decreased memory, decreased problem solving/word finding, slow processing speed and reduced insight and judgment, 2nd to her TBI.*** Her recommendations were for Annie to have a routine head CT scan every 1-2 years to monitor for changes. She was to continue her avocational and recreational activities that she performed with her daughter. ***Dr. DeSantis also reported that Annie was in need of 24 hour supervision due to her limited insight and decreased problem solving abilities.*** Annie was able to say she would call 911 in the case of an emergency or fire but she was unable to describe what she would do next, such as exit the building. Dr. DeSantis recommended that Annie follow up with a rehab specialist at least once a year and should follow up with her internist on a regular basis.

On 6/3/03 the RN case manager reported that Annie had undergone her IME and it was verbally reported that ***she had a TBI with significant cognitive deficits and continued to require 24 hour a day supervision. It was also recommended that she continue to attend avocational (recreational) activities with supervision.***

On 6/11/03 Annie followed up with Dr. Ramon Soutfront, her family physician, for an evaluation of her previous CHI. He reported she was verbal and has some difficulty with recall. It was reported that her daughter was also present. Annie was referred for an ophthalmology evaluation.

On 5/28/04 Annie followed up with Dr. R. Soutfront. It was reported that she had a TIA and had been seen at St. Joseph Mercy Hospital for a B/P of 160/110. Her B/P today was 128/82. She was placed Lotrel and advised to follow up in one month.

On 2/7/04 RN case management services were initiated by Joan Barnette, RN, CCM, from KC Rehab Consultants. It was reported that Annie had been unemployed on the date of her MVA. Her physicians were Dr. DeSantis (PMR), Dr. S. Gonte (ophthalmology), and Dr. R Harris (family practice). ***It was reported that Tamika Coggins was her guardian and conservator and that she demonstrated significant cognitive deficits which required 24 hour supervision to assure her safety***. Tamika reported that Annie would follow her directions well but due to her memory deficit she required frequent cues and redirection. It was reported by the RN case manager that Annie demonstrated an antalgic gait on the right as well as right sided partial paralysis related to her MVA injuries of 7/22/78. It was reported that Tamika demonstrated and verbalized a good understanding of Annie's physical and cognitive needs including safety and ADLs. Annie was reported to be seeing an ophthalmologist for an eye condition that causes tearing. She had plugs placed in her tear ducts but recently had the right plug removed. She was also reported to be following with her primary care physician for a current diagnosis of hypertension. Her daughter reported that Annie had a metal plate in her head. She also reported a past history of a hysterectomy and the removal of gallstones. Anne reported she was not currently involved in a therapy program. ***The RN case manager reported that Annie's daughter provided for all of her supervision and attendant care requirements. She also provides her with all of her transportation as Annie does not drive. It was reported that Annie continued to reside with her daughter and her family in a new home equipped with an intercom system and an alarm system that alarms if someone tries to enter or exit the home.***

On 2/9/04 Annie underwent a Functional Evaluation in her home with Caroline Hinkle, OTR. It was reported that Annie resides with her daughter, her son in law and their two young children in a newly constructed home that is about 6 months old. ***It was reported that prior to her MVA Annie was independent in all aspects of her daily living.*** It was reported by her daughter